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CITY AND COUNTY OF SAN FRANCISCO
CALIFORNIA
BOARD OF APPEALS ANNUAL REPORT

JULY 1, 1996 - JUNE 30, 1997



CITY AND COUNTY OF SAN FRANCISCO
WILLIE L. BROWN, JR., MAYOR
BOARD OF APPEALS 1996-1997

The following Commissioners were appointed January 22, 1996 by Mayor Willie L. Brown, Jr.:

Wayne Jackson Hu, President, elected January 24, 1996 to serve until January 15, 1997, thereafter Commissioner resigned effective June 25, 1997

Mauri Schwartz, Vice President, elected January 24, 1996 to serve until January 15, 1997, thereafter Commissioner

Carole S. Cullum, Commissioner, elected President January 22, 1997

John E. McInerney, III, Commissioner, elected Vice President January 22, 1997

Mario A. Salgado, Commissioner

Arnold Y.K. Chin, Commissioner, appointed June 25, 1997

S T A F F

Catherine B. Johnson, Principal Clerk (1408)

Linda F. Laws, Legal Secretary I (1458)

E. Rudzinski, Sr. Clerk Typist (1426)

Carmen Omran, Sr. Clerk Typist (Provisional) (1426)

Robert H. Feldman, Executive Secretary (1575)

Mae J. Chu, Official Court Reporter (annual contract approved by Civil Service Commission, Purchaser and AO)



Statement of Purpose, Authorization and Procedures:

The mission of the Board of Permit Appeals, a quasi-judicial body created originally under the Charter of 1932, is the processing, hearing and deciding of appeals of departmental decisions involving the granting, denial, suspension, or revocation of permits, licenses, and other use entitlements by various commissions, departments, bureaus, agencies and officers of the City and County of San Francisco. The granting or denial of variances and other determinations of the Zoning Administrator and discretionary review decisions of the City Planning Commission are included.

The Board was established under Part 16 of the Charter, Sections 3.650 and 3.651, and its regulations are contained in Part III of the Municipal Code, Article 1, Permit Procedures. The new Charter, effective July 1, 1996 retained the Board, and changed its name to Board of Appeals and its department head's title from Executive Director to Executive Secretary. (Sec. 4.106). Specific appeal rights are also set forth in the Building, Planning, Public Works, Police, Health, Plumbing and Electrical Codes. The following are examples of the diversity of matters appealed:

- building permits for new commercial and residential buildings
- alteration permits for rear decks and room additions to residential buildings
- demolition permits to clear lots for construction
- rear yard and parking variances, often to legalize



apartments

- massage parlor and masseuse/masseur permits
- fruit, coffee, and hot dog pushcart permits
- entertainment, dance hall, and cabaret permits
- taxicab medallions and taxi driver permits
- horse-drawn vehicle permits
- refuse collection permits for federal facilities
- restaurant permits
- mechanical amusement device and billiard parlor permits
- sign, awning, and billboard permits
- street artist permits
- public service kiosk permits
- sidewalk merchandise display permits

In addition, the Board rules on interpretations of the Planning Code by the Zoning Administrator as well as on appeals of investigation fees (penalties) levied by the Department of Building Inspection for work done without the required permit.

Under the new Charter the Board lost jurisdiction over permits issued by the Recreation and Park Department and the Port Commission, as well as any permit issued pursuant to a Conditional Use authorization by the Planning Commission.

Regular public hearings are held on two or three Wednesdays a month at 6:00 p.m. in Room 428 in the interim City Hall, at 401 Van Ness Avenue. The scheduled appellants and departments present their cases and respond to inquiries by the Board. Although many matters are resolved at the initial hearing, a sizeable number



require a second hearing, and in some cases, a site visit of the premises by Board members is necessary. Meetings may last as late as midnight.

Several years ago, the Board instituted a policy of hearing all cases involving each department in sequence. This practice has resulted in reducing overtime costs of departmental officials and police officers required to attend the Board's hearings.

This fiscal year the Board processed 223 appeals. Many appeals involved more than one department, and required, on the average, the resolution of at least three or four separate issues. Therefore, the workload of the Board consists of the resolution of hundreds of separate disputed items each year.

Cases appealed to Superior Court require the compilation of an administrative record for the litigating parties and frequent consultation with the City Attorney's office. Two writs were taken during this fiscal year, and both were pending at the end of the year.

The attached statistical breakdown shows the overall nature and final disposition of appeals decided by the Board for the past fiscal year.

MBO Performance: The Board has consistently met or exceeded its MBO goals since their inception, and intends to continue performing to a high standard. The MBO goal for the Board has been to issue 95% of its final written decisions within thirty days of the final hearing by the Board. We are somewhat concerned with the



ever increasing, costly, complicated and time consuming legal burdens placed upon the Board both by courts and the City Attorney's office, but will continue to strive to reach our goals. Writs (appeals to court) against the Board have become more frequent and require a great deal of time and effort. The frequency of litigation results in the need for more complete documentation of cases and the adoption of written findings by the Board in a growing number of cases.

Narrative of the year's activities-Introduction:

Throughout the year at its 28 meetings the Board considered the usual variety of appeals: protests of issued building and demolition permits, penalties imposed by the Department of Building Inspection, suspension and revocations of Police permits, and the Zoning Administrator decisions granting and denying zoning variance applications, as well as various Public Works Department decisions on permits for street trees and sidewalk encroachments. Each meeting agenda has in addition items involving requests for rehearings, requests for jurisdiction and the adoption of findings for cases already decided. The following narrative describes some of the more significant decisions of the year.

First Quarter: In July the Board amended its Rules to prohibit parties from submitting briefs at the public hearing, since Commissioners cannot read fresh material while listening to testimony. Amid a variety of appeals the Board overruled a Zoning

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Administrator variance denial for property in the Mission District, allowing the legalization of a second dwelling unit without any provision for off-street parking. At the same meeting the Board upheld a Zoning Administrator determination requiring a yogurt shop on Castro Street to obtain conditional use authorization from the Planning Commission, since its permit had been issued in error without the required authorization.

In August the Board decided a difficult variance appeal in the Sea Cliff neighborhood, upholding the Zoning Administrator's decision to legalize a deck built originally without a permit, on condition it be screened its full length to preserve the privacy of the neighbors. The Board heard a number of penalty cases from the Department of Building Inspection, most of which were handled on a consent calendar, so long as they met the department's guideline that the work done without permit had been done by a prior owner.

In September the Board overruled the Zoning Administrator and allowed a church on Masonic Avenue to use a parking lot around the corner on Oak Street on condition the congregation work with the Planning Department to landscape and screen the lot appropriately. At the same meeting the Board upheld the granting of a variance for an underground parking garage for a two-family house on the summit of Russian Hill, on condition the parking spaces under the abutting properties be restricted to use by the occupants of the houses, and that any tree destroyed by the variance holder shall be replaced at his expense with a tree of similar size and kind as the one destroyed.



Also in September the Board voted unanimously to declare a 3-2 Board vote of November 29, 1995 regarding the re-scoping of an E.I.R. for a proposed residential project at 959 Powell to be null and void since it was in effect a request for rehearing and four votes are required under Section 16 of Part III of the Municipal Code to grant a rehearing. This decision had the effect of requiring the developer to go forward with an E.I.R. for the project based on the scoping done by the Board in 1991. The matter has been litigated and is still under the jurisdiction of the Superior Court.

Second Quarter: During October the Board sent a letter based on several recent appeals, to the Mayor expressing its concern over the plight of people losing their homes as the result of departmental enforcement action against illegal units, and it recommended that legislation be considered to legalize illegal units to preserve an important part of the City's housing stock.

At its meeting on the last Wednesday of October the Board overruled the Planning department determination that a vacant old hotel on Fourth Street couldn't be used as a tourist hotel again. The Board found that the hotel use hadn't been abandoned, and so allowed this non-conforming use to continue and the building to be renovated. This decision was typical of several Board decisions this year supportive of small businesses having problems with City departments that were inappropriately enforcing Code provisions. In this case City records supported the appellants but had not been

given weight by department staff.

Also in October the Board heard an appeal by the operator of a 24-hour restaurant in Chinatown which had been denied a cabaret permit from the Police Department because the Planning staff had not approved the application. The matter was continued after hearing for the Planning staff to review the matter to see whether the use was grandfathered in or whether a Code amendment was necessary to allow this use, which no one opposed and which provided a needed all-night amenity to the City. The Board sent a letter to the Planning Commission recommending that the Code be explicitly amended to allow 24-hour restaurants in the Chinatown Visitor Retail District to avoid this problem in the future.

In November the Board reinstated four Police permits to businesses that had failed to pay their annual fees. These decisions were consistent with the Board's policy of support to small businesses in the City. Later in the month the Board upheld a permit for a side window on a house on condition the lower pane be made of translucent glass in order to protect the privacy of the protesting neighbor.

In December the Board held a much-publicized hearing concerning the proposed construction of a one-family house on 10th Avenue on a newly created sloping lot. The protestors were a couple who had recently purchased the lot abutting at the rear. After a long and heated hearing the Board continued the appeal so that amended plans and programs for construction and landscaping could be prepared, and on February 26, 1997 the revised plans and

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programs were adopted.

During the last meeting of 1996 the Board approved a permit to legalize a small lower second unit in a house on Lyon Street, originally built as a servants' quarters. This case was typical of the Board's concerns about the loss of housing, especially small affordable units, during a period when the rental market is tight and the vacancy rate in the City is said to be 1%.

Third Quarter: During January the Commissioners were given a walk-through explanation of the plan reviewing offices of the Department of Building Inspection and the Planning Department by Chief Building Inspector Laurence Kornfield and Senior Planner Mary Gallagher, to familiarize them with the processes alluded to continually at Board hearings.

As provided for in its Rules, the Board elected new officers for the year on January 22, 1997, unanimously electing Carole Cullum as president and John McInerney as vice president, while thanking Wayne Hu and Mauri Schwartz for serving in those offices during the prior year.

In February the Board held a public hearing on a change in its Rules to make the starting time 6:00 p.m. instead of 5:30 p.m. in order to accommodate Commissioners and the public. There was no opposition and since then the Board has begun its meetings at 6:00 p.m.

Later in the month the Board held its first of several protest

appeal hearings concerning the proposed construction of live-work units in the industrially zoned areas South of Market and around Potrero Hill. The hearings were characterized by intense debate between developers and those opposing such construction. During this period the Planning Commission held hearings to evaluate the existing controls in the Planning Code and to promulgate new ones to address the concerns of those opposing these projects. The Board, often on split votes, upheld the projects whose permits and plans met the existing Codes and Zoning controls, leaving the legislative remedies to the Planning Commission and the Board of Supervisors.

During March the Board held its annual hearing on the Department's budget for the next fiscal year and adopted the staff proposal which was almost identical to the previous year's. Zoning Administrator Robert Passmore and Chief Building Inspector Laurence Kornfield gave a plan-reading workshop to the Commissioners at the end of the March 5th meeting as part of their on-going Commissioner educational program. Their next installment, during the next fiscal year, will be an over-view of the Building and Planning Codes.

At the end of March Vice President McInerney asked that staff prepare amendments to the Board's Rules for consideration at a public hearing and adoption by the Board that would revise the briefing schedule for appeals and increase the readability of submittals. A hearing was held on June 25, 1997 and the matter was continued to August 13, 1997 for final adoption. The hearing was



well-attended by the public and representatives of neighborhood associations and the legal community, and the Board finally adopted on August 13th a compromise amendment suggested by President Cullum that all parties deemed fair.

In March the Board held a hearing and upheld a demolition permit for an abandoned warehouse on 19th Street that was of great concern to neighboring residents who wanted the building retained as a buffer between their rear yards and the alleged criminal activity on 19th Street. After a lengthy hearing the Board upheld the permit with comprehensive conditions to protect the neighbors.

Fourth Quarter: In May the Board considered a site permit for a three-unit building proposed for Sutter Street. The protestor and eighteen supporters testified for almost two hours in opposition to the project and the Board voted unanimously to uphold the permit with five conditions meant to ameliorate the effect of the design of the facade on the neighborhood. The protestors have gone to Superior Court on a writ and are continuing their fight against the proposed building.

In June the Board heard an appeal concerning tables and chairs on a sidewalk in front of a restaurant on Union Street. The permit met all the departmental guidelines and the Board upheld it. Sidewalk encroachment permits, issued by the department of Public Works, and revocable by the Department if pedestrians are obstructed, are increasingly appealed to the Board and many appeals are expected in the new fiscal year as Public Works reviews its

regulations and more and more businesses seek space on their sidewalks for chairs, tables and merchandise.

The Board upheld the Zoning Administrator's determination that adult video stores were prohibited in a residential area across the street from an elementary school on Folsom Street, after the emotional testimony from parents of small children describing the inappropriateness of these businesses in their neighborhood.

On the last meeting of the year the Board said farewell to Commissioner Wayne Hu who resigned to pursue his business interests and other civic projects. The Mayor appointed Arnold Y. K. Chin as a replacement and Commissioner Chin participated in the June 25th meeting. He served formerly on the Parking and Traffic Commission and came to the Board with relevant experience as a City Commissioner and as a practicing attorney in the City.

Departmental representatives at public hearings: The Planning Department was represented by Robert W. Passmore, Zoning Administrator and Assistant Director of Planning - Implementation at most of the Board's hearings, ably assisted on occasion by Senior Planner Mary Gallagher.

The Department of Building Inspection was represented by Chief Building Inspector Laurence Kornfield assisted by Senior Building Inspector Rafael Torres-Gil.

The Police Department was ably represented by Sgt. William Coggan, under the direction of Lt. Edmond Pecinovsky of the Police Department's legal division.

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The Board was ably advised on legal matters at each hearing by Judith Boyajian, Deputy City Attorney, the head of the City Attorney's land use team.

Budget: The department operated within its budget of \$284,791 for the year without the need for supplemental appropriations. The proposed budget for Fiscal Year 1997-1998 submitted in February to the Mayor and approved in June by the Board of Supervisors was slightly more than the budget for the FY 1996-1997, \$294,584. During Fiscal Year 1996-1997 the Board collected \$35,370 in fees, the only revenue taken in by the department, which is deposited in the General Fund.

Staff: The clerical staff continues to perform extraordinarily well under a challenging work load. Catherine Johnson, principal clerk, has superbly handled staff training, Payroll, Controller's, Purchasing's, and Human Resource's procedures, as well as directly supporting the appeals processing. Linda Laws, legal secretary, expertly handled appeals, the telephones and the public and was ably backed by Carmen Omran, part-time senior clerk typist. Under Ms. Johnson's able direction, the staff has managed to keep the appeals process flowing smoothly, with minimum inconvenience to the public, and in spite of budget restrictions.

Code Amendment: In January 1996 the Board of Supervisors enacted and in February the Mayor signed legislation that amended the regulations under which the Board of Appeals operates. The

Code (Section 8 of Part III of the Municipal Code) required that the Board schedule hearings between five and fifteen days after an appeal was filed, so that permit holders, departments and concerned parties were not delayed unduly by the appeals process. The Board of Supervisors, acting on recommendations from neighborhood activists, and with no opposition from builders, amended the provision to require scheduling of appeals between ten and forty-five days, giving concerned parties more time to prepare for hearings. The amendment has been implemented with no complaints from the parties to appeals. In March 1997 the Board enacted Ordinance No. 128-97 which brought the relevant sections of Part III into conformity with the new charter provisions.

It remains the intention of the Board and staff to continue to strive for excellence in serving the public, with strict attention to all legal requirements of the process, and with compassion for the human beings involved.

Respectfully submitted,



Robert H. Feldman,
Executive Secretary

cc: Commissioners - Board of Appeals
Judith Boyajian
Robert Passmore
James Hutchinson
Joan MacQuarrie
Laurence Kornfield
Sgt. William Coggan
San Francisco Public Library
David Serrano-Sewell

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**ANNUAL REPORT
BOARD OF APPEALS**

COMPARATIVE STATISTICAL ANALYSIS OF APPEALS FILED FOR FISCAL YEARS
1995 TO 1996
1996 TO 1997

	'95/96		'96/97	
TOTAL NUMBER OF APPEALS FILED	200		223	
Department of Building Inspection	131	65.5%	150	67.3%
Department of Public Works	4	2.0%	10	4.5%
Planning Department	49	24.5%	37	16.6%
Police Department	9	4.5%	12	5.4%
Fire Department	1	0.5%	0	0.0%
Health Department	1	0.5%	1	0.4%
Art Commission	2	1.0%	2	0.9%
Redevelopment Agency	0	0.0%	11	4.9%
Housing Inspection Division	0	0.0%	0	0.0%
Interdepartmental Staff Committee				
on Traffic and Transportation	0	0.0%	0	0.0%
Urban Forestry	1	0.5%	0	0.0%
Street Use and Mapping	2	1.0%	0	0.0%
	200	100.0%	223	100.0%
Overruled with conditions *	41		69	
Overruled without conditions	13		44	
Concurred	135		87	
Withdrawn	11		23	
	200		223	

DEPARTMENT OF BUILDING INSPECTION

Overruled with conditions *	34	77
Overruled without conditions	8	4
Concurred	89	56
Withdrawn	6	13
	131	150



COMPARATIVE ANNUAL REPORT FISCAL YEARS 1995 TO 1996 AND 1996 TO 1997

DEPARTMENT OF PUBLIC WORKS

	'95/96	'96/97
Overruled with conditions	0	3
Overruled without conditions	1	3
Concurred	5	2
Withdrawn	0	2
	<hr/> 6	<hr/> 10

PLANNING DEPARTMENT

Overruled with conditions *	15	14
Overruled without conditions	22	7
Concurred	8	13
Withdrawn	4	3
	<hr/> 49	<hr/> 37

POLICE DEPARTMENT

Overruled with conditions *	1	4
Overruled without conditions	0	0
Concurred	7	3
Withdrawn	1	5
	<hr/> 9	<hr/> 12

FIRE DEPARTMENT

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	1	0
Withdrawn	0	0
	<hr/> 1	<hr/> 0

HEALTH DEPARTMENT

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	1
Withdrawn	1	0
	<hr/> 1	<hr/> 1



COMPARATIVE ANNUAL REPORT FISCAL YEARS 1995 TO 1996 AND 1996 TO 1997

ART COMMISSION

Overruled with conditions *	0	0
Overruled without conditions	0	1
Concurred	1	1
Withdrawn	0	0
	<hr/>	<hr/>
	1	2

REDEVELOPMENT AGENCY

Overruled with conditions*	0	0
Overruled without conditions	0	0
Concurred	2	11
Withdrawn	0	0
	<hr/>	<hr/>
	2	11

DIVISION OF APARTMENT AND
HOTEL INSPECTION

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	<hr/>	<hr/>
	0	0

INTERDEPARTMENT STAFF COMMITTEE ON
TRAFFIC AND TRANSPORTATION

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	<hr/>	<hr/>
	0	0

URBAN FORESTRY

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	<hr/>	<hr/>
	0	0



COMPARATIVE ANNUAL REPORT FISCAL YEARS 1995 TO 1996 AND 1996 TO 1997

STREET USE AND MAPPING

Overruled with conditions *	2	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	<hr/>	<hr/>
	2	0

OTHER ACTIONS

	'95/96	'96/97
	<hr/>	<hr/>
Rehearings Withdrawn	1	1
Rehearings Granted	17	3
Rehearings Denied	36	11
	<hr/>	<hr/>
	54	15
Further Hearings	16	17
Site Inspections	0	0
Court Remands	1	0
	<hr/>	<hr/>
	17	17
TOTAL OTHER ACTIONS	71	32
Matters Pending	9 **	11 ***
Appeals Not Accepted (Lack of Jurisdiction)	9	4
Appeals Accepted but Board had No Jurisdiction	4	7
Appeals Continued at Hearings	52	17
	<hr/>	<hr/>
	78	39

COMPARATIVE ANNUAL REPORT FISCAL YEARS 1995 TO 1996 AND 1996 TO 1997

	'95/96	'96/97
Appeals to Superior Court		
Writs of mandate denial/Board upheld	5	1
Writs of mandate granted/Board overruled	1	1
Other litigation/Board upheld	1	0
Other litigation/Board overruled	0	0
Litigation settled	1	0
Litigation pending	3	2

*NOTE: A majority of appeals in this category are actually concurrences with the Department with only minor conditions. For example, any change in the amount of a penalty assessed for work done without a permit renders that decision in the "Overruled with conditions" column.

**NOTE: Additional appeals processed but no decision released during the fiscal year 1995-1996.

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BOARD OF APPEALS

ANNUAL REPORT

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CITY AND COUNTY OF SAN FRANCISCO
WILLIE L. BROWN, JR., MAYOR
BOARD OF APPEALS 1997-1998

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January 21, 1998
John E. McInerney, III, Commissioner, re-elected Vice President
January 21, 1998
Mauri Schwartz, Commissioner
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Arnold Y.K. Chin, Commissioner
Alicia D. Becerril, Commissioner, appointed August 14, 1998.

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L. Novoa-Huf, Sr. Clerk Typist (Provisional)	(1426)
Robert H. Feldman, Executive Secretary	(1575)

P R O F E S S I O N A L S E R V I C E S

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approved by Civil Service Commission, Purchaser and AO 1997-1998)

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Statement of Purpose:

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Several years ago, the Board instituted a policy of hearing all cases involving each department in sequence. This practice has resulted in reducing overtime costs of departmental officials, especially police officers, required to attend the Board's hearings.

During this year the Board continued its practice of having the Official Court Reporter at the beginning of the meeting swear or affirm in all those intending to testify at any hearing that night.

This fiscal year the Board processed 236 appeals. Many appeals involved more than one department, and required, on the average, the resolution of at least three or four separate issues. Therefore, the workload of the Board consists of the resolution of hundreds of separate disputed items each year.

Cases appealed to Superior Court require the compilation of an administrative record for the litigating parties and frequent consultation with the City Attorney's office. Seven writs were taken during this fiscal year, and one was pending at the end of the year.

1. The first part of the paper discusses the importance of the study of the history of the United States. It is argued that a knowledge of the past is essential for a full understanding of the present and for the development of a sound policy for the future.

2. The second part of the paper discusses the importance of the study of the history of the United States. It is argued that a knowledge of the past is essential for a full understanding of the present and for the development of a sound policy for the future.

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6. The sixth part of the paper discusses the importance of the study of the history of the United States. It is argued that a knowledge of the past is essential for a full understanding of the present and for the development of a sound policy for the future.

The attached statistical breakdown shows the overall nature and final disposition of appeals decided by the Board for the past fiscal year.

MBO Performance: The Board has consistently met or exceeded its MBO goals since their inception, and intends to continue performing to a high standard. The MBO goal for the Board has been to issue 95% of its final written decisions within thirty days of the final hearing by the Board. We are somewhat concerned with the ever increasing, costly, complicated and time consuming legal burdens placed upon the Board both by the courts and the City Attorney's office, but will continue to strive to reach our goals. Writs (appeals to court) against the Board have become more frequent and require a great deal of time and effort. The frequency of litigation results in the need for more complete documentation of cases and the adoption of written findings by the Board in a growing number of cases.

Narrative of the year's activities-Introduction:

Throughout the year at its 29 meetings the Board considered the usual variety of appeals: protests of issued building and demolition permits, penalties imposed by the Department of Building Inspection, suspension and revocations of Police permits, Zoning Administrator determinations, and decisions granting and denying zoning variance applications, as well as various Public Works Department decisions on permits for street trees and sidewalk table/chair encroachments. Each meeting agenda has, in addition, items involving requests for rehearings, requests for jurisdiction,

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and the adoption of findings for cases already decided. The following narrative describes some of the more significant decisions of the year.

First Quarter: In July the Board granted jurisdiction to eight taxicab companies allowing them to appeal two Police Commission resolutions disapproving stock transfers in the companies. This led to a lengthy hearing and a rehearing later in the year with the Board upholding the Police Commission.

During August the Board amended its Rules after a well-attended public hearing to set a new briefing schedule for appeals which allows for a three-page rebuttal brief in addition to an initial 12-page statement from both parties. The new system has worked well for the past year, with few complaints from the parties to appeals. In addition the Board upheld the suspensions and revocations of night club permits for a club on DeHaro Street which was alleged to have generated violent incidents.

At the request of the Board the staff began the scheduling of penalty appeals once a month as a consent item on their calendar, and throughout the rest of the year penalty appeals were handled expeditiously and to the advantage of the permit holders in this manner.

In September the Board held the first of eight appeals throughout the year of permits for construction of live-work units in the industrial area South of Market. Four of these protest appeals were withdrawn prior to hearing and three were upheld by the Board after public hearings.

At a September meeting Chief Building Inspector Laurence Kornfield reported to the Board on the new follow-up process the Department of Building Inspection was instituting to insure that conditions of approval imposed by the Board are implemented by the Building Inspectors.

Second Quarter: In October the Board heard the usual protest, penalty and denial appeals, and held a closed session to set goals for the executive secretary for the year as part of the new pay-for-performance program for members of the Municipal Executive Association. Commissioners attended special workshop sessions produced by the Human Resources Department and the Controller on this subject. One goal resulted in the first customer satisfaction survey done by this department during the first quarter 1998.

In November the Board held the first of two hearings on the revocation of a sidewalk display permit revoked by the Department of Public Works for a produce shop in Chinatown. After much deliberation and with conditions of compliance met, the Board granted the permit. The department indicated that they were developing new guidelines and procedures to insure safe, accessible sidewalks, and that we may have many similar cases in the next year from shops all over the City which fail to meet the guidelines.

Also in November the Board heard a protest appeal of a four-story three-unit project on Sutter Street on remand from Superior Court. The Board overruled the issuance of the building permit for failure of the project to comply with the Planning Commission's Residential Design Guidelines. The Court had said that under

The first part of the paper discusses the importance of the study of the history of the United States. It is argued that a knowledge of the past is essential for a full understanding of the present. The author then proceeds to discuss the various factors that have shaped the development of the United States, including the role of the government, the influence of the economy, and the impact of the culture.

In the second part of the paper, the author examines the role of the government in the development of the United States. It is argued that the government has played a central role in the shaping of the nation, from the early years of settlement to the present day. The author then discusses the various policies and programs that have been implemented by the government, and the impact of these on the development of the country.

The third part of the paper discusses the influence of the economy on the development of the United States. It is argued that the economy has been a major factor in the growth of the nation, and that the government has played a key role in the regulation of the economy. The author then discusses the various economic policies and programs that have been implemented by the government, and the impact of these on the development of the country.

In the fourth part of the paper, the author examines the impact of the culture on the development of the United States. It is argued that the culture has been a major factor in the shaping of the nation, and that the government has played a key role in the promotion of the culture. The author then discusses the various cultural policies and programs that have been implemented by the government, and the impact of these on the development of the country.

The final part of the paper discusses the future of the United States. It is argued that the country is facing a number of challenges, and that the government has a key role to play in addressing these. The author then discusses the various policies and programs that should be implemented by the government, and the impact of these on the future of the country.

Planning Code Section 311 analysis of the project under the RDG was now mandatory. This was a new departure for the Board and Section 311 findings now accompany their decisions on residential projects in residential districts.

Third Quarter: In February, after a two-hour public hearing, the Board overruled the Zoning Administrator and required that a fast food operation on Divisadero Street obtain conditional use authorization for an alteration permit to remodel a falafel restaurant into a nationally advertised hamburger shop. Twenty-four neighbors testified in opposition to the use. Under the new charter provisions, a permit issued pursuant to a conditional use authorization may not be appealed to the Board, so this would be the last time this matter would be heard, assuming permits were issued after Planning Commission approval of a conditional use authorization.

Also in February the Board upheld a site permit for an eight-story, 158-unit/retail/garage building on Fourth Street in a Redevelopment area. While the Board expressed sympathy for neighbors who would be inconvenienced by construction, they appeared to be acutely conscious of the shortage of housing in the city which far out-weighed other concerns.

In the same vein, they upheld a variance granted to allow a parking garage in North Beach on Vallejo Street being protested by a group from Telegraph Hill opposed to any intensification in the area because of traffic and parking problems. This matter was being litigated on environmental grounds and the City's approval

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PART 1
1888
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was finally upheld.

Later in the month the Board upheld on a split vote a Zoning Administrator determination that a motel on Judah Street near the ocean was a residential use and not a non-conforming commercial use that could serve transient guests. Fifty-one people testified, evenly divided between those in favor of the motel and those opposed. This was one of several hearings during the year involving the Hotel Conversion Ordinance and the registration procedure for residential hotel rooms, always difficult cases for the Board because of the equities on all sides.

In March on one of the live-work appeals, the Board imposed extensive conditions requiring the builder to add language to the Notice of Special Restrictions required by Planning that would strongly warn prospective buyers of the noise conditions of the neighborhood filled with industrial uses, as well as requiring additional sound-proofing of units. Planning Director Gerald Green appeared before the Board soon after to report on the Planning Commission's newest guidelines for review of live-work projects and the new Industrial Protection Zones in which no new live-work project will be approved without a discretionary review hearing by the Planning Commission.

Also in March the Board heard an appeal of a Public Works denial of a permit to replace 17 trees on the Sansome Street frontage of Levi's Plaza, and overruled to allow the replacement. This was the first of several tree replacement cases in which the Board heard conflicting testimony from certified arborists and DPW

staff.

At the same meeting the Board upheld the denial of a massage/spa establishment permit on Bancroft in the Bay View, based on Section 101.1 of the Planning Code (enacted as Proposition M in 1986). Here the neighborhood strongly opposed the use as one incompatible with their efforts to improve the neighborhood.

Fourth Quarter: In April the Board continued to hear cases involving live-work units, vertical additions to houses, parking variances for new businesses, legalizations of rear decks, the usual types of appeals heard all year.

Commissioner Mario Salgado resigned, effective April 22, 1998, his last meeting. The Board wished him well in his move to Southern California and thanked him for his dedicated service on behalf of the people of the City. This left a four member Board until the appointment of Alicia D. Becerril on August 14 by the Mayor.

In May the Board heard a two-part appeal of authorization and parking exceptions for an office project on Front Street protested by the Foundation for San Francisco's Architectural Heritage on the grounds that the project would undermine an architectural conservation district. The Board upheld the project authorization and exceptions, convinced that the design was appropriate and far superior to the existing empty lot and vacant buildings on the sites.

At the same meeting the Board upheld a 10-unit live-work project on 17th Street on condition the permit holder donate

\$20,000 for the benefit of minority artists in the South of Market neighborhood.

In June the Board heard acrimonious testimony on a protest appeal of an alteration permit to legalize a small extension on a one-family house on 33rd Avenue. After more than an hour of testimony the Board upheld the permit with a condition requiring revisions to the plans to require a lightwell to allow light and air to the protestor's rear side window.

Later in June the Board revised its Rules, changing the starting time of meetings from 6:00 p.m. to 5:30 p.m. on Wednesdays. This was done in the interest of reducing overtime costs for city staff at meetings.

Departmental representatives at public hearings: The Planning Department was ably represented by Robert W. Passmore, Zoning Administrator and Assistant Director of Planning - Implementation, the Department of Building Inspection by Chief Building Inspector Laurence Kornfield, assisted by Senior Building Inspector Rafael Torres-Gil, and the Police Department by Sgt. William Coggan, under the direction of Lt. Edmond Pecinovsky of the Police Department's legal division.

The Board was advised on legal matters at each hearing by Judith Boyajian, Deputy City Attorney, the head of the City Attorney's land use team.

Budget: The department operated within its budget of \$294,584 for the year without the need for supplemental appropriations. The

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proposed budget for Fiscal Year 1998-1999 submitted in February to the Mayor and approved in June by the Board of Supervisors was slightly more than the budget for the FY 1997-1998, \$314,609. During Fiscal Year 1997-1998 the Board collected \$46,900 in fees, the only revenue taken in by the department, which is deposited in the General Fund. This represents an increase of 32.6% above last year's revenue.

Staff: The clerical staff continues to perform extraordinarily well under a challenging work load. Catherine Johnson, principal clerk, has superbly handled staff training, Payroll, Controller's, Purchasing's, and Human Resource's procedures, as well as directly managing the appeals processing. Linda Laws, legal secretary, expertly handled appeals, the telephones and the public and was ably backed by Linda-Novoa Huf, a provisional part-time senior clerk typist. Xiomara Velez joined us for two days a week in April to assist during a vacation period, and has remained with us into the new year. Under Ms. Johnson's able direction, the staff has managed to keep the appeals process flowing smoothly, with minimum inconvenience to the public, and in spite of budget restrictions and a 30% increase in filings in the second half of the year.

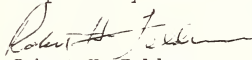
Code Amendment: In January 1996 the Board of Supervisors enacted and in February the Mayor signed legislation that amended the regulations under which the Board of Appeals operates. The Code (Section 8 of Part III of the Municipal Code) required that the Board schedule hearings between five and fifteen days after an

The first part of the paper discusses the importance of the study of the history of the United States. It is argued that a knowledge of the past is essential for a proper understanding of the present. The author then proceeds to a detailed examination of the various factors which have shaped the development of the United States, from the early colonial period to the present day. He discusses the role of the different states, the influence of foreign powers, and the impact of internal conflicts. The author concludes by emphasizing the need for a balanced and objective approach to the study of history, one that takes into account all the relevant facts and circumstances.

appeal was filed, so that permit holders, departments and concerned parties were not delayed unduly by the appeals process. The Board of Supervisors, acting on recommendations from neighborhood activists, and with no opposition from builders, amended the provision to require scheduling of appeals between ten and forty-five days, giving concerned parties more time to prepare for hearings. The amendment has been implemented with no complaints from the parties to appeals. In March 1997 the Board enacted Ordinance No. 128-97 which brought the relevant sections of Part III into conformity with the new charter provisions.

It remains the intention of the Board and staff to continue to strive for excellence in serving the public, with strict attention to all legal requirements of the process, and with compassion for the human beings involved.

Respectfully submitted,


Robert H. Feldman,
Executive Secretary

cc: Commissioners - Board of Appeals
Judith Boyajian
Robert Passmore
James Hutchinson
Joan MacQuarrie
Laurence Kornfield
Sgt. William Coggan
San Francisco Public Library
Ariane Coleman

**ANNUAL REPORT
BOARD OF APPEALS**

COMPARATIVE STATISTICAL ANALYSIS OF APPEALS FILED FOR FISCAL YEARS
1996 TO 1997
1997 TO 1998

	<u>'96/97</u>		<u>'97/98</u>	
TOTAL NUMBER OF APPEALS FILED	223		236	
Department of Building Inspection	150	67.3%	183	77.5%
Department of Public Works	10	4.5%	12	5.1%
Planning Department	37	16.6%	29	12.3%
Police Department	12	5.4%	12	5.1%
Fire Department	0	0.0%	0	0.0%
Health Department	1	0.4%	0	0.0%
Art Commission	2	0.9%	0	0.0%
Redevelopment Agency	11	4.9%	0	0.0%
Housing Inspection Division	0	0.0%	0	0.0%
Interdepartmental Staff Committee				
on Traffic and Transportation	0	0.0%	0	0.0%
Urban Forestry	0	0.0%	0	0.0%
Street Use and Mapping	0	0.0%	0	0.0%
	<u>223</u>	100.0%	<u>236</u>	100.0%
Overruled with conditions *	69		146	
Overruled without conditions	44		30	
Concurred	87		43	
Withdrawn	23		17	
	<u>223</u>		<u>236</u>	

DEPARTMENT OF BUILDING INSPECTION

Overruled with conditions *	77	93
Overruled without conditions	4	10
Concurred	56	63
Withdrawn	13	17
	<u>150</u>	<u>183</u>

THE HISTORY OF THE

REIGN OF

CHARLES THE FIRST

BY

JOHN BURNET

OF

THE UNIVERSITY OF OXFORD

IN TWO VOLUMES

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COMPARATIVE ANNUAL REPORT FISCAL YEAR 1996 TO 1997 AND 1996 TO 1997

DEPARTMENT OF PUBLIC WORKS

	'96/97	'97/98
Overruled with conditions	3	4
Overruled without conditions	3	2
Concurred	2	3
Withdrawn	2	3
	<hr/> 10	<hr/> 12

PLANNING DEPARTMENT

Overruled with conditions *	14	12
Overruled without conditions	7	8
Concurred	13	7
Withdrawn	3	2
	<hr/> 37	<hr/> 29

POLICE DEPARTMENT

Overruled with conditions *	4	0
Overruled without conditions	0	0
Concurred	3	7
Withdrawn	5	5
	<hr/> 12	<hr/> 12

FIRE DEPARTMENT

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
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HEALTH DEPARTMENT

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	1	0
Withdrawn	0	0
	<hr/> 1	<hr/> 0



COMPARATIVE ANNUAL REPORT FISCAL YEARS 1996 TO 1997 AND 1997 TO 1998

ART COMMISSION

Overruled with conditions *	0	0
Overruled without conditions	1	0
Concurred	1	0
Withdrawn	0	0
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REDEVELOPMENT AGENCY

Overruled with conditions*	0	0
Overruled without conditions	0	0
Concurred	11	0
Withdrawn	0	0
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	11	0

DIVISION OF APARTMENT AND HOTEL INSPECTION

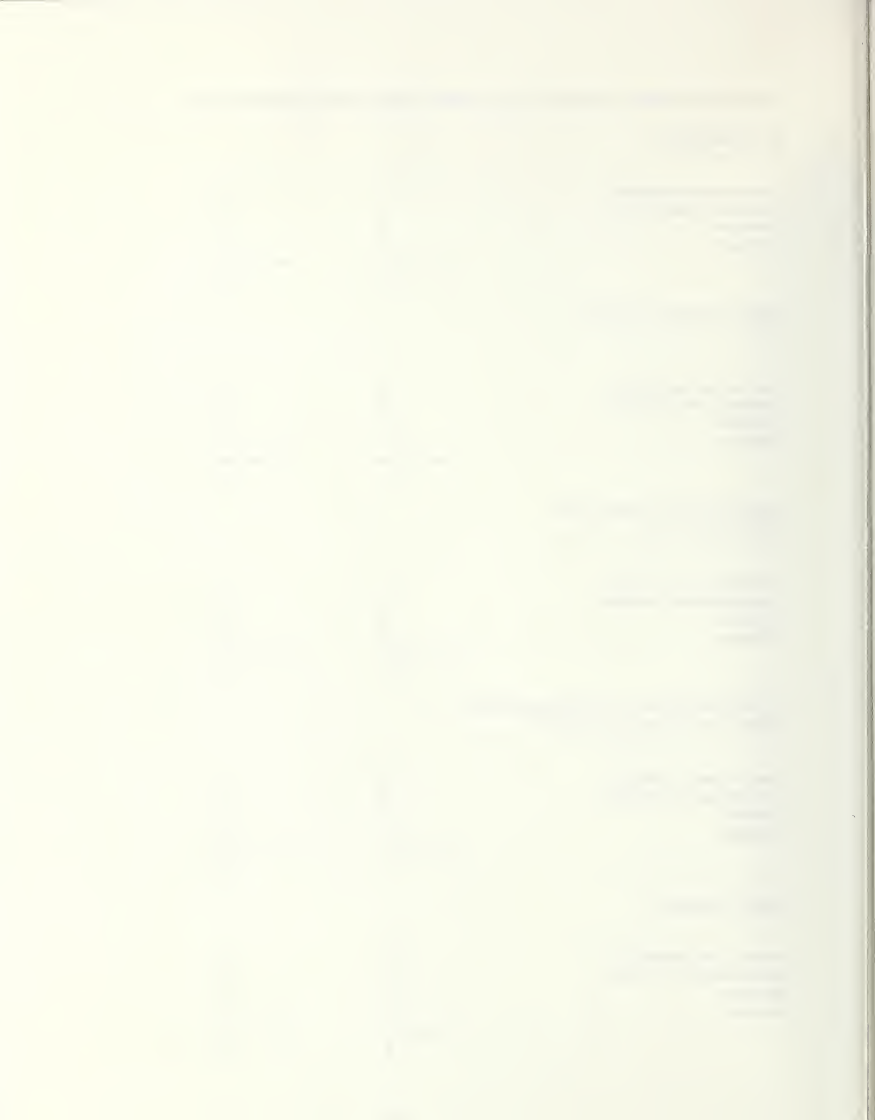
Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
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INTERDEPARTMENT STAFF COMMITTEE ON TRAFFIC AND TRANSPORTATION

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
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URBAN FORESTRY

Overruled with conditions *	0	0
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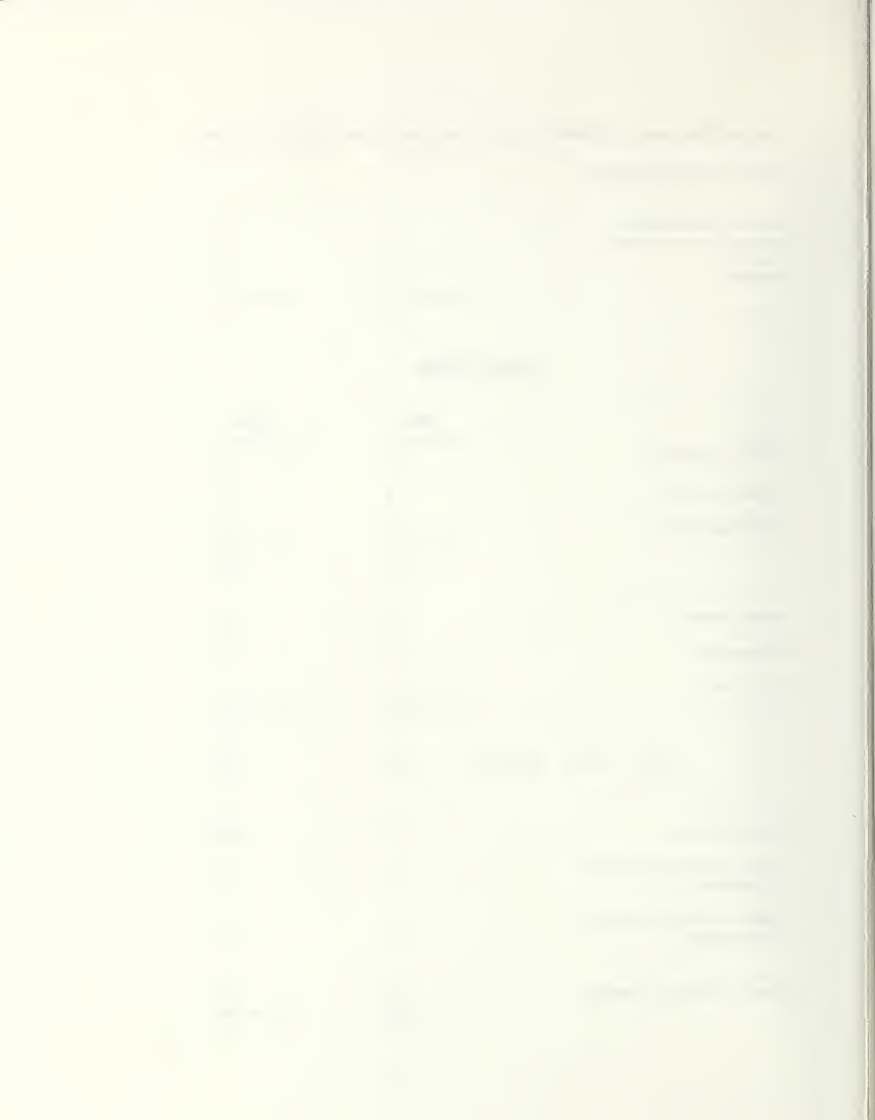
COMPARATIVE ANNUAL REPORT FISCAL YEARS 1996 TO 1997 AND 1997 TO 1998

STREET USE AND MAPPING

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
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OTHER ACTIONS

	'96/97	'97/98
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Rehearings Withdrawn	1	5
Rehearings Granted	3	12
Rehearings Denied	11	18
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	15	35
Further Hearings	17	19
Site Inspections	0	0
Court Remands	0	1
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	17	20
TOTAL OTHER ACTIONS	32	55
Matters Pending	11 **	22 ***
Appeals Not Accepted (Lack of Jurisdiction)	4	3
Appeals Accepted but Board had No Jurisdiction	7	5
Appeals Continued at Hearings	17	20
	<hr/>	<hr/>
	39	50



COMPARATIVE ANNUAL REPORT FISCAL YEARS 1996 TO 1997 AND 1997 TO 1998

	'96/97	'97/98
Appeals to Superior Court		
Writs of mandate denial/Board upheld	1	4
Writs of mandate granted/Board overruled	1	0
Other litigation/Board upheld	0	1
Other litigation/Board overruled	0	0
Litigation settled	0	1
Litigation pending	2	1

*NOTE: A majority of appeals in this category are actually concurrences with the Department with only minor conditions. For example, any change in the amount of a penalty assessed for work done without a permit renders that decision in the "Overruled with conditions" column.

**NOTE: Additional appeals processed but no decision released during the fiscal year 1996-1997.

***NOTE: Additional appeals processed but no decision released during the fiscal year 1997-1998.





CITY AND COUNTY OF SAN FRANCISCO

BOARD OF APPEALS

ANNUAL REPORT

JULY 1, 1998-JUNE 30, 1999

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CITY AND COUNTY OF SAN FRANCISCO
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BOARD OF APPEALS 1998-1999

Carole S. Cullum, Commissioner, re-elected President
January 21, 1998; until January 20, 1999
John E. McInerney, III, Commissioner, elected President
January 20, 1999
Mauri Schwartz, Commissioner, resigned November 18, 1998
Arnold Y.K. Chin, Commissioner; elected Vice-President,
February 3, 1999
Alicia D. Becerril, Commissioner, appointed August 14, 1998;
elected Vice-President January 20, 1999; resigned January 24, 1999
Sabrina N. Saunders, Commissioner, appointed November 19, 1998
Allam El Qadah, Commissioner, appointed March 10, 1999

S T A F F

Catherine B. Johnson, Principal Clerk	(1408)
Linda F. Laws, Legal Secretary I	(1458)
Xiomara Velez, Sr. Clerk Typist (part-time as needed)	(1426)
Linda Novoa-Huf, Sr. Clerk Typist	(1426)
Robert H. Feldman, Executive Secretary	(1575)

P R O F E S S I O N A L S E R V I C E S

Helen Chin, Official Court Reporter (annual contract approved by Civil Service Commission, Purchaser and AO for 1998-1999)



Statement of Purpose:

The mission of the Board of Appeals, a quasi-judicial body created originally under the Charter of 1932, is the processing, hearing and deciding of appeals of departmental decisions involving the granting, denial, suspension, or revocation of permits, licenses, and other use entitlements by various commissions, departments, bureaus, agencies and officers of the City and County of San Francisco. The granting or denial of variances and other determinations of the Zoning Administrator and discretionary review decisions and downtown building authorizations of the Planning Commission are included.

Authorization and Procedures:

The Board is established under Section 4.106 of the Charter, and its regulations are contained in Part III of the Municipal Code, Article 1, Permit Procedures. The new Charter, effective July 1, 1996 retained the Board, and changed its name to the Board of Appeals and the department head's title from Executive Director to Executive Secretary. (Sec. 4.106). Specific appeal rights to the Board are also set forth in the Building, Planning, Public Works, Police, Health, Plumbing and Electrical Codes. The following are examples of the diversity of matters appealed:

- building permits for new commercial and residential buildings



- alteration permits for rear decks and room additions to residential buildings
- demolition permits to clear lots for construction
- rear yard and parking variances, often to legalize apartments
- massage parlor and masseuse/masseur permits
- fruit, coffee, and hot dog pushcart permits
- entertainment, dance hall, and after hours permits
- taxicab medallions and taxi driver permits
- horse-drawn vehicle permits
- refuse collection permits for federal facilities
- restaurant permits
- mechanical amusement device and billiard parlor permits
- sign, awning, and billboard permits
- street artist permits
- public service kiosk permits
- sidewalk merchandise display permits

In addition, the Board rules on interpretations of the Planning Code by the Zoning Administrator as well as on appeals of investigation fees (penalties) levied by the Department of Building Inspection for work done without the required permit.

Under the new Charter the Board lost jurisdiction over permits issued by the Recreation and Park Department and the Port Commission, as well as any permits issued pursuant to a Conditional Use Authorization by the Planning Commission.

Regular public hearings were held this year on two or three Wednesdays a month beginning at 5:30 p.m. in Room 428 in the interim City Hall, at 401 Van Ness Avenue. On January 20, 1999 the Board moved its hearings to Room 416 in the refurbished City Hall after a five years absence. At hearings the scheduled appellants, permit holders and departments present their cases and respond to inquiries by the Board. Although many matters are resolved at the initial hearing, a sizeable number require a second hearing, and in some cases, a site visit of the premises by Board members is necessary. Meetings may last as late as midnight, with as many as nine or ten appeals on a calendar.

Several years ago, the Board instituted a policy of hearing all cases involving a specific department in sequence. This practice has resulted in reducing overtime costs of departmental officials, especially police officers, who are required to attend the Board's hearings.

During this year the Board continued its practice of having the Official Court Reporter at the beginning of the meeting swear or affirm in all those intending to testify at any hearing that night.

This fiscal year the Board processed 195 appeals. Many appeals involved more than one department, and required, on the average, the resolution of at least three or four separate issues. Therefore, the workload of the Board consisted of the resolution of hundreds of issues.

THE HISTORY OF THE CITY OF BOSTON

FROM THE FIRST SETTLEMENT TO THE PRESENT TIME

BY JOHN B. BOWEN

VOLUME I. THE FIRST SETTLEMENT TO 1700

THE CITY OF BOSTON

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Cases appealed to Superior Court require the compilation of an administrative record for the litigating parties and frequent consultation with the City Attorney's office. Four writs were taken during this fiscal year. Two were dismissed by petitioners while the Superior Court upheld the City in another, which has been appealed to the Court of Appeals, and the forth is still pending.

The attached statistical breakdown shows the overall nature and final disposition of appeals decided by the Board for the past fiscal year.

MBO Performance: The Board has consistently met or exceeded its MBO goals since their inception, and intends to continue performing to a high standard. The MBO goal for the Board has been to issue 95% of its final written decisions within thirty days of the final hearing by the Board. We are somewhat concerned with the ever increasing, costly, complicated and time consuming legal burdens placed upon the Board both by the courts and the City Attorney's office, but will continue to strive to reach our goals. Writs (appeals to court) against the Board have become more frequent and require a great deal of time and effort. The frequency of litigation results in the need for more complete documentation of cases and the adoption of written findings by the Board in a growing number of cases.

Narrative of the year's activities-Introduction:

Throughout the year at its 36 meetings the Board considered the usual variety of appeals: protests of issued building and

demolition permits, penalties imposed by the Department of Building Inspection, suspensions and revocations of Police permits, Zoning Administrator determinations, and decisions granting and denying zoning variance applications, as well as various Public Works Department decisions on permits for street trees and sidewalk table/chair encroachments. Each meeting agenda has, in addition, items involving requests for rehearings, requests for jurisdiction, and the adoption of findings for cases already decided. The following narrative describes some of the more significant decisions and activities of the year.

First Quarter: Our fiscal year began July 1, 1998 with the Board composed of Carole Cullum, presiding as president, John McInerney , vice president, Commissioners Arnold Chin and Mauri Schwartz, and one vacant seat. The new Charter, effective since July 1, 1996, provides that only three votes are needed to overrule a departmental decision while there is a vacancy on the Board. To make Section 16 of Part III of the Municipal Code, regarding requests for rehearings, consistent with the Charter, the Board sent legislation to the Supervisors to amend Section 16, which was duly enacted and approved by the Mayor August 28, 1998, allowing only three votes to grant a rehearing while there is a vacancy on the Board.

During July, the Board heard an appeal of a Planning determination that a proposed French bread bakery couldn't locate in the Upper Fillmore area for various zoning reasons. In

overruling and allowing the bakery, the Board imposed conditions of operation suggested by the Western Addition Neighborhood Association to protect the nearby residents from possible impacts. At the same meeting the Board upheld a Health Department denial of a permit to build a smoking room in a bar, in support of the City's strong policies and ordinances against smoking in public places.

Also in July the Board heard the first of several appeals protesting permits for construction of live-work unit on sites South of Market Street, upholding the permits with conditions requiring stronger Notices of Special Restrictions and other notifications to buyers of units of the industrial and commercial character of their new neighborhood, as well as plan revisions in some cases to make the buildings more compatible.

Throughout the year the Board heard penalty appeals on a consent calendar on the first Wednesday of each month, disposing of cases expeditiously with the assistance of the Department of Building Inspection whose guidelines speeded up the decision-making process.

The Board upheld the denial of permits to demolish a small house on Lake Street for replacement with a much larger duplex, after a thorough and lengthy hearing at which 29 people spoke. In this and other residential cases, the Residential Design Guidelines of the Planning Commission figured prominently in the discussion, and the Board regularly made Section 311 findings to meet the Planning Code requirements for designs that are in character with

the surrounding residential neighborhoods before approving the new construction.

During September the Board conducted the first of several closed sessions to set goals and objectives and then to evaluate his success meeting the goals for their executive secretary as part of the Performance Management Program created by the Human Resources Department and the Controller to provide a bonus for merit for City department heads and managers.

On August 14, 1999 the Mayor appointed Alicia Becerril to the fifth seat on the Board, vacated the previous April by Mario Salgado. Commissioner Becerril, an attorney in San Francisco, took her seat at the meeting of August 19, when the Board upheld a Planning Department determination regarding the alterations to the Mt. Sutro TV Tower for digital transmission required by the FCC.

Second Quarter: At the end of October the Board heard and decided two appeals of the Police Commission's Annual Public Convenience and Necessity Findings that 400 new taxicab medallions should be issued, with certain conditions. Sixty-four people testified over a two-hours period, and the Board unanimously adopted President Cullum's motion to uphold the Police Commission with conditions that will speed up the process of issuance of the new medallions.

In November the most controversial matter to be heard was an appeal of a Zoning Administrator's order to stop operation of cooking classes in a residential zone. Twenty-seven people

testified and the Board overruled the order but imposed conditions on this accessory use to protect the neighbors from excessive noise and non-residential activity.

Commissioner Schwartz announced at the end of the November 18th meeting that her resignation would be effective immediately and she thanked the Board for its support and friendship over the past three years. On November 19th the Mayor appointed Sabrina Saunders, a community relations consultant, to the Board. Commissioner Saunders was welcomed by the Board at her first meeting on December 9th, when the Board agenda had the usual mix of taxi, building permit and massage parlor cases, overruling an alteration permit to remove illegal units in an apartment house in order to preserve the home of a widow with a dependent grandchild.

The last appeal heard in 1998 involved a rent restriction imposed as a condition of the granting of a variance to allow two new units to be added to a two-unit building. The Board rewrote the condition to reserve the two one-bedroom units for Section 8 or similar rent program tenants, and removed the rent restriction.

Third Quarter: The first meeting in January began with five penalty cases handled through the consent process, all being reduced to two times the regular fee, as they all met the Department's Guidelines for reduction, basically that the work done without a permit had been done by former owners and not by the current owners who were correcting the old violations. In addition the Board upheld a permit to build 24 live-work units South of

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Market with conditions to insure that occupants understood that they were to live and work in an industrial zone, and also upheld a variance granted for a new garage behind a house in Sea Cliff, opposed by several neighbors with property backing onto the common rear vehicular easement.

On January 20th the Board held its hearing in City Hall for the first time since March 1995, and elected Commissioner John McInerney president and Commissioner Alicia Becerril, vice president for the new year, thanking Commissioner Cullum for two years of distinguished service as presiding officer.

Just four days later the Mayor appointed Commissioner Becerril to the seat on the Board of Supervisors vacated by the City's newly elected Treasurer Susan Leal, and the Board wished their Vice President good luck in her new role in City government. On February 3rd the Board elected Commissioner Arnold Chin vice president for the rest of the year to replace Supervisor Becerril.

In February several live-work protests were decided with the Board imposing conditions regarding documentation that will insure notice to prospective buyers of units that they are moving into industrial areas characterized by noise, fumes and trucking activity.

A long hearing February 10th resulted in the upholding of a denial by the Planning Commission on a 2-2 vote of a demolition permit to replace a small one-family house with a large duplex on Lake Street. Nineteen people testified for two hours. With a

vacancy on the Board only three votes would have been needed to overrule the Planning Commission.

In addition, the Board amended its Rules to require ten copies of all documents submitted so that copies can go to the relevant departments which are interested in our work.

On February 17th the Board adopted the proposed budget for fiscal year 1999-2000.

On March 10th the Mayor appointed Allam M. El Qadah to the Board to fill the seat vacated by Supervisor Becerril, and on March 17th Commissioner El Qadah sat for the first time, joining in a 5-0 vote to allow replacement of two ficus trees at the Northpoint Apartments after months of discussion and excavation of roots.

At the meeting of March 24th the Board upheld a parking variance granted to an athletic club on Nob Hill after insuring that the club is open to minority and women members.

Fourth Quarter: In early May Chief Building Inspector Laurence Kornfield with City Planner Larry McDonald, gave Commissioners Saunders and El Qadah a tour of the permit review areas of the Departments of Building Inspection and Planning, including a briefing by Robert Passmore, the Zoning Administrator, on the Planning Code and Zoning Regulations.

On May 12 the Board upheld a site permit to convert an abandoned theater on Haight Street into 18 dwelling units, after a two-hour hearing at which 28 people testified. One year before the Board had upheld the variance for the project and an alteration



permit to clear out the interior, also after a lengthy hearing with most of the same people testifying.

One week later the Board upheld a disapproval of a massage establishment in the Mission District based on the Mission Massage Establishment Interim Moratorium Special Use District regulations. On the same agenda was a controversial live-work project of six units South of Market which was upheld on a 2-2 vote after a hearing with 29 people testifying.

In June the Board overruled a denial by the Planning Department of a sign permit for a women's theater in the Mission, allowing an existing marquee to be used as contemplated by the original conditional use application for the conversion from a movie theater. While the Charter grants the Board no jurisdiction over building and demolition permits issued pursuant to conditional use authorizations by the Planning Commission, other permits may still be appealed to the Board.

Later in June the Board overruled a revocation of a taxicab medallion by the Police, imposing a 90-day suspension instead, for an owner who failed to drive his cab as required by the regulations, because of an alleged disability.

The final hearing of the year on June 30th marked the final appearance of Robert Passmore, the Zoning Administrator, who retired after 39 years with the Planning Department. The Board adopted a resolution thanking him for his long and dedicated service implementing the Planning Code's zoning regulations.

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY

REPORT OF THE
COMMISSIONER OF THE
BUREAU OF CHEMISTRY

FOR THE YEAR
1900
AND
THE FIRST SIX MONTHS
OF 1901

PRESENTED TO THE
UNITED STATES SENATE
AND HOUSE OF REPRESENTATIVES

AT THE ANNUAL MEETING
OF THE BUREAU OF CHEMISTRY
HOLDING AT THE
DEPARTMENT OF AGRICULTURE

WASHINGTON
1901

PRINTED BY THE
GOVERNMENT PRINTING OFFICE

UNDER THE SUPERVISION OF
THE COMMISSIONER OF THE
BUREAU OF CHEMISTRY

AND
THE ASSISTANT COMMISSIONER

OF THE
BUREAU OF CHEMISTRY

OF THE
DEPARTMENT OF AGRICULTURE

Finally, the Board thanked Helen Chin, the official court reporter for Fiscal Year 1998-1999, for her efforts; she had decided not to renew her contract for another year.

Departmental representatives at public hearings: The Planning Department was ably represented by Robert W. Passmore, Zoning Administrator and Assistant Director of Planning - Implementation, backed up by Planning Director Gerald Green, the Department of Building Inspection by Chief Building Inspector Laurence Kornfield, assisted by Senior Building Inspector Rafael Torres-Gil, and the Police Department by Sgt. William Coggan, under the direction of Lt. Edmond Pecinovsky of the Police Department's legal division.

The Board was advised on legal matters at each hearing by Judith Boyajian, Deputy City Attorney, the head of the City Attorney's land use team.

Budget: The department operated within its budget of \$315,944 for the year without the need for supplemental appropriations. The proposed budget for Fiscal Year 1999-2000 submitted in February to the Mayor and approved in June by the Board of Supervisors was slightly more than the budget for the FY 1998-1999, \$347,714. During Fiscal Year 1998-1999 the Board collected \$44,575 in fees, the only revenue taken in by the department, which is deposited in the General Fund. This represents a decrease of 5% below last year's revenue.

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY

REPORT OF THE
COMMISSION ON THE ORGANIZATION OF THE
DEPARTMENT OF CHEMISTRY

PRESENTED TO THE
FACULTY OF THE DIVISION OF THE PHYSICAL SCIENCES
AT THE MEETING OF THE DIVISION, MAY 1964

BY THE
COMMISSION ON THE ORGANIZATION OF THE
DEPARTMENT OF CHEMISTRY

CHICAGO, ILLINOIS
1964

PRINTED BY THE
UNIVERSITY OF CHICAGO PRESS

CHICAGO, ILLINOIS
1964

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DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY

REPORT OF THE
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BY THE
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DEPARTMENT OF CHEMISTRY

CHICAGO, ILLINOIS
1964

Staff: The clerical staff continues to perform extraordinarily well under a challenging work load. Catherine Johnson, principal clerk, has superbly handled staff training, Payroll, Controller's, Purchasing's, and Human Resource's procedures, as well as directly managing the appeals processing. Linda Laws, legal secretary, expertly handled appeals, the telephones and the public and was ably backed by Linda-Novoa Huf, a provisional part-time senior clerk typist. Xiomara Velez joined us for two days a week to assist during a vacation period, and has remained with us into the new year. Under Ms. Johnson's able direction, the staff has managed to keep the appeals process flowing smoothly, with minimum inconvenience to the public, and in spite of budget restrictions and an increase in filings in the second half of the year.

Code Amendment: In January 1996 the Board of Supervisors enacted and in February the Mayor signed legislation that amended the regulations under which the Board of Appeals operates. For twenty years, the Code (Section 8 of Part III of the Municipal Code) has required that the Board schedule hearings between five and fifteen days after an appeal was filed, so that permit holders, departments and concerned parties were not delayed unduly by the appeals process. The Board of Supervisors, acting on recommendations from neighborhood activists, and with no opposition from builders, amended the provision to require scheduling of appeals between ten and forty-five days, giving concerned parties

more time to prepare for hearings. The amendment has been implemented with no complaints from the parties to appeals. In March 1997 the Board enacted Ordinance No. 128-97 which brought the relevant sections of Part III into conformity with the new charter provisions.

It remains the intention of the Board and staff to continue to strive for excellence in serving the public, with strict attention to all legal requirements of the process, and with compassion for the human beings involved.

Respectfully submitted,

Robert H. Feldman,
Executive Secretary

cc: Commissioners - Board of Appeals
Judith Boyajian
Mary Gallagher
James Hutchinson
Laurence Kornfield
Sgt. William Coggan
San Francisco Public Library
Ariane Coleman





ANNUAL REPORT
BOARD OF APPEALS

COMPARATIVE STATISTICAL ANALYSIS OF APPEALS FILED FOR FISCAL YEARS
1997 TO 1998
1998 TO 1999

	'97/98		'98/99	
	-----		-----	
TOTAL NUMBER OF APPEALS FILED	236		195	
Department of Building Inspection	183	77.5%	141	72.3%
Department of Public Works	12	5.1%	2	1.0%
Planning Department	29	12.3%	32	16.4%
Police Department	12	5.1%	18	9.2%
Fire Department	0	0.0%	0	0.0%
Health Department	0	0.0%	1	0.5%
Art Commission	0	0.0%	1	0.5%
Redevelopment Agency	0	0.0%	0	0.0%
Housing Inspection Division	0	0.0%	0	0.0%
Interdepartmental Staff Committee				
on Traffic and Transportation	0	0.0%	0	0.0%
Urban Forestry	0	0.0%	0	0.0%
Street Use and Mapping	0	0.0%	0	0.0%
	-----		-----	
	236	100.0%	195	100.0%
Overruled with conditions *	146		85	
Overruled without conditions	30		25	
Concurred	43		64	
Withdrawn	17		21	
	-----		-----	
	236		195	

DEPARTMENT OF BUILDING INSPECTION

Overruled with conditions *	93	67
Overruled without conditions	10	11
Concurred	63	41
Withdrawn	17	11
	-----	-----
	183	130



COMPARATIVE ANNUAL REPORT FISCAL YEAR 1997 TO 1998 AND 1998 TO 1999

DEPARTMENT OF PUBLIC WORKS

	'97/98	'98/99
Overruled with conditions	4	10
Overruled without conditions	2	3
Concurred	3	0
Withdrawn	3	1
	<hr/> 12	<hr/> 14

PLANNING DEPARTMENT

Overruled with conditions *	12	5
Overruled without conditions	8	9
Concurred	7	14
Withdrawn	2	3
	<hr/> 29	<hr/> 31

POLICE DEPARTMENT

Overruled with conditions *	0	1
Overruled without conditions	0	0
Concurred	7	7
Withdrawn	5	10
	<hr/> 12	<hr/> 18

FIRE DEPARTMENT

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	<hr/> 0	<hr/> 0

HEALTH DEPARTMENT

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	1
Withdrawn	0	0
	<hr/> 0	<hr/> 1



COMPARATIVE ANNUAL REPORT FISCAL YEARS 1997 TO 1998 AND 1998 TO 1999

ART COMMISSION

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	1
Withdrawn	0	0
	-----	-----
	0	1

REDEVELOPMENT AGENCY

Overruled with conditions*	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	-----	-----
	0	0

DIVISION OF APARTMENT AND
HOTEL INSPECTION

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	-----	-----
	0	0

INTERDEPARTMENT STAFF COMMITTEE ON
TRAFFIC AND TRANSPORTATION

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	-----	-----
	0	0

URBAN FORESTRY

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	-----	-----
	0	0



COMPARATIVE ANNUAL REPORT FISCAL YEARS 1997TO 1998 AND 1998 TO 1999

STREET USE AND MAPPING

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	<hr/>	<hr/>
	0	0

OTHER ACTIONS

	'97/98	'98/99
	<hr/>	<hr/>
Rehearings Withdrawn	5	2
Rehearings Granted	12	12
Rehearings Denied	18	26
	<hr/>	<hr/>
	35	40
Further Hearings	19	30
Site Inspections	0	0
Court Remands	1	0
	<hr/>	<hr/>
	20	30
TOTAL OTHER ACTIONS	55	70
Matters Pending	22 **	28 ***
Appeals Not Accepted (Lack of Jurisdiction)	3	5
Appeals Accepted but Board had No Jurisdiction	5	5
Appeals Continued at Hearings	20	94
	<hr/>	<hr/>
	50	142



COMPARATIVE ANNUAL REPORT FISCAL YEARS 1997 TO 1998 AND 1998 TO 1999

	'97/98	'98/99
Appeals to Superior Court	4	4
Writs of mandate denial/Board upheld	0	1
Writs of mandate granted/Board overruled	0	0
Other litigation/Board upheld	1	0
Other litigation/Board overruled	0	0
Litigation settled	1	0
Litigation pending	1	2
Patitions dismissed by petitioners	0	2

*NOTE: A majority of appeals in this category are actually concurrences with the Department with only minor conditions. For example, any change in the amount of a penalty assessed for work done without a permit renders that decision in the "Overruled with conditions" column.

**NOTE: Additional appeals processed but no decision released during the fiscal year 1997-1998.

***NOTE: Additional appeals processed but no decision released during the fiscal year 1998-1999.





CITY AND COUNTY OF SAN FRANCISCO

BOARD OF APPEALS

ANNUAL REPORT

JULY 1, 1999-JUNE 30, 2000

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CITY AND COUNTY OF SAN FRANCISCO
WILLIE L. BROWN, JR., MAYOR

BOARD OF APPEALS 1999-2000

Arnold Y.K. Chin, Commissioner, elected President January 26, 2000.
Sabrina N. Saunders, Commissioner, elected Vice President
January 26, 2000.
Carole S. Cullum, Commissioner.
Allam M. El Qadah, Commissioner.
John E. McInerney, III, Commissioner.

S T A F F

Catherine B. Johnson, Principal Clerk	(1408)
Linda F. Laws, Legal Secretary I	(1458)
Linda Novoa-Huf, Sr. Clerk Typist	(1426)
Victor F. Pacheco, Sr. Clerk Typist (part-time as needed)	(1426)
Xiomara Velez, Sr. Clerk Typist (part-time as needed)	(1426)
Robert H. Feldman, Executive Secretary	(1575)

P R O F E S S I O N A L S E R V I C E S

Annette Snyder, Lusk & Snyder, Official Court Reporter (annual contract approved by Civil Service Commission, Purchaser and CAO for 1999-2000)

THE HISTORY OF THE

REIGN OF

CHARLES THE FIRST

BY

JOHN BURNET

1679

Statement of Purpose

The mission of the Board of Appeals, a quasi-judicial body created originally under the Charter of 1932, is the processing, hearing and deciding of appeals of departmental decisions involving the granting, denial, suspension, or revocation of permits, licenses, and other use entitlements by various commissions, departments, bureaus, agencies and officers of the City and County of San Francisco. The granting or denial of variances, determinations of the Zoning Administrator, discretionary review decisions, and downtown building authorizations of the Planning Commission are included.

Authorization and Procedures

The Board is established under Section 4.106 of the Charter, and its regulations are contained in Part III of the Municipal Code, Article 1, Permit Procedures. The new Charter, effective July 1, 1996 retained the Board, and changed its name to the Board of Appeals and the department head's title from Executive Director to Executive Secretary. Specific appeal rights to the Board are also set forth in the Building, Planning, Public Works, Police, Health, Plumbing and Electrical Codes. The following are examples of the diversity of matters appealed during the past year:

- building permits for new commercial, residential
and live/work buildings
- alteration permits for rear decks and room additions to

residential buildings

- demolition permits to clear lots for construction
- rear yard and parking variances, often to legalize apartments
- massage parlor and masseuse/masseur permits
- entertainment, dance hall, and after hours permits
- taxicab medallion, taxi driver and pedicab route permits
- refuse collection permits for federal facilities
- restaurant permits
- mechanical amusement device and billiard parlor permits
- sign, awning, and billboard permits
- street artist permits
- public service kiosk and street furniture permits
- sidewalk merchandise display permits
- street tree replacement permits

In addition, the Board ruled on interpretations of the Planning Code and determinations by the Zoning Administrator as well as on appeals of investigation fees (penalties) levied by the Department of Building Inspection for work done without a required permit.

Under the new Charter the Board lost jurisdiction over permits issued by the Recreation and Park Department and the Port Commission, as well as any building and demolition permits issued pursuant to a Conditional Use Authorization by the Planning Commission.

Regular public hearings were held on the average of two to

three Wednesdays a month beginning at 5:30 p.m. in Room 416 at City Hall. At the hearings the appellants, permit holders, departments, and the public presented their cases and responded to inquiries by the Board. Although many matters are resolved at the initial hearing, a sizeable number require a second hearing, and in some cases, a site visit of the premises by Board members is necessary. Meetings may last as late as midnight, with as many as nine or ten appeals on a calendar.

During this year the Board continued its practice of having the Official Court Reporter at the beginning of the meeting swear in or affirm all those intending to testify at any hearing that night.

This fiscal year 173 appeals were filed. Many appeals involved more than one department, and required, on the average, the resolution of at least three or four separate issues. Therefore, the workload of the Board consisted of the resolution of hundreds of issues.

The attached statistical breakdown shows the overall nature and final disposition of appeals decided by the Board for the past fiscal year.

Management Performance

The Board has consistently met or exceeded its goals since inception, and intends to continue performing to a high standard. The goals for the Board have been to issue 95% of its written decisions within 30 days of the final hearing by the Board and to

schedule appeals within 45 days of filing. During the year 87% of appeals were scheduled for hearing within 45 days.

Narrative of the Year's Activities-Introduction

The Board held 34 Wednesday night meetings during the fiscal year and heard the usual variety of appeals, mostly concerning building permits. There were fewer consent calendar items than in previous years and more appeals of Zoning Administrator determinations than ever before, probably generated by the building boom in the City together with the appointment and resignation of the new Zoning Administrator and the appointment of another soon after. Neighborhood activists and developers sought relief from Zoning Administrator interpretations and determinations during this period of flux in the Planning Department, as two very different planners with very different styles implemented the Planning Code. During the hiatus, the Director of Planning filled in as Acting Zoning Administrator, adding a third style to implementation activities and probably generating a few more appeals.

With new technology affecting the sign business, the Board heard more appeals of sign permits than in past years, and this trend will probably continue as various neighborhoods seek greater sign controls and the competitive multi-media high-tech industry increasingly fills the industrial and commercial districts.

The following narrative describes some of the more significant appeals, hearings and decisions of the year, during which there were no changes in Board membership.

First Quarter

Commissioner McInerney served as president for the first half of the fiscal year and presided at all meetings until February 2000 when Commissioner Chin began his year as president and presiding officer. At its first meeting of the year the Board overruled the Zoning Administrator and denied a variance application that would have allowed the creation of a substandard lot on Diamond Heights that would have been out of character with the neighborhood. A week later the Board upheld a permit for a residential kitchen exhaust fan with the condition that it be moved from the sidewall where it irritated neighbors to the roof, with 55% of the cost to be borne by the abutting neighbors.

On July 21, 1999, the Board welcomed the newly appointed Zoning Administrator Mary Gallagher and upheld a Planning Commission denial of a proposed conversion of a warehouse to 12 live/work units in the Mission next to a modern dance theater/studio. Protest appeals of live/work construction permits continued to be a recurring issue throughout the year, with the Board upholding the permits approved by Planning, often on split votes. By the end of the year the issue of multi-media uses moving into the South of Market and Mission replaced live/work as a hot issue before the Board.

Also in July 1999 the Board denied a variance but amended stipulations imposed by it in 1976 to allow use of ground floor space of an apartment house as living space for an elderly woman

who was no longer able to walk up stairs. The Board must increasingly find solutions to housing problems of the elderly and the poor during a period of increasing rents and short supply of apartments. In August 1999 the Board heard an appeal of a street artist denied permission from the Art Commission to sell butterflies and insects mounted in display boxes, and the Board overruled, allowing him to sell them after testimony and discussion on a philosophical and aesthetic plane not usually reached in this forum.

In September 1999 the Board considered an appeal of a Haight-Ashbury sidewalk public toilet permit, and while the permit was upheld on a split vote, the process led Public Works to resite the facility because of the intense opposition of nearby residents.

On September 22, 1999, a neighborhood association appellant requested that the Board provide a Cantonese translator to assist elderly members in their protest appeal of a Blockbuster video store proposed for a former bank building in the Sunset. Twenty-four people spoke at the hearing and the translator sat with several of the appellants and assisted them. The Board upheld the permit on condition the permit holder seek blue and white curb designations to ameliorate expected parking problems. On September 29, 1999, the Board overruled a Planning Commission denial of a 19-unit live/work project, expecting that once the permit is issued that those opposing the project will protest the issuance to the Board.

Second Quarter

The Board continued its practice of considering appeals of penalties imposed by Building Inspection for work done without a permit as a consent item on the first meeting of each month and considered three such appeals on October 13, reducing the nine times regular fee penalties to two times the regular fee, the lowest allowed by the Building Code with consent of the department. The department's consent is based on the case meeting certain guidelines, e.g., that the work was done by a previous owner prior to 1960 and the new owner is trying to bring the recently purchased building up to Code.

On October 20, 1999, the Board upheld by a unanimous vote the permits for two live/work buildings on Indiana and Minnesota Streets, with the condition that the Notice of Special Restrictions be amended to include specific language alerting prospective buyers of units that the buildings are in an industrial area and noise, fumes and truck congestion is to be expected, and not to be complained of by occupants of the units.

In November 1999 the Board overruled the denial of a 20-unit live/work building and granted a permit for the site on DeHaro Street, and upheld the conditions imposed on a Police loudspeaker permit limiting hours of use at Powell and Market Streets.

In December 1999 the Board overruled the Art Commission and reduced a six-month suspension of a street artist permit to eight weeks for a violation of the Street Artist Ordinance for selling in an undesignated location.

Later in December 1999 the Board upheld six permits for a 370-unit over parking and retail project on Alemany Boulevard after a lengthy hearing at which 15 people testified. This project went on to the Board of Supervisors for hearings on a street widening requirement and was not finally approved until June 2000.

Third Quarter

In January the Board began the new millennium with a decision to uphold two alteration permits for a multi-media business at 2300 Harrison Street opposed by San Franciscans for Reasonable Growth, who argued that the use was an office use that should be subject to office conversion regulations and fees. This was the first of several appeals in the last two quarters on the subject of multi-media and business service uses alleged to be office uses. The Board upheld the Planning Department in all cases, saying that legislation was needed to clarify the issues raised based on sound public policy.

In February 2000 the Board held a lengthy hearing at which 22 people testified on four conditions imposed on a Police Department decision to issue Dance Hall Keeper/After Hours/Place of Entertainment permits at 375.11th Street. The Board overruled the four conditions, leaving 14 other conditions in place to protect the neighborhood.

President Chin began his year as presiding officer on February 9, 2000, when the Board heard testimony from 16 people concerning a proposed 16-unit live/work project next to the San Francisco Food

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Bank which feared their public service operation would be jeopardized. The Board upheld the permit on a split vote. Later in February the Board held another lengthy hearing with 14 people, evenly divided, testifying in an appeal of a Zoning Administrator's determination that the smoke and odors emitted from a Potrero Hill restaurant did not reach a level of offensiveness that would violate the Planning Code. The Board upheld the Zoning Administrator. That evening the Board adopted the proposed budget for the department for FY 2000-2001 amending it by requesting an additional \$50,000 for technological improvements, \$6,000 for costs of community meetings, and requested a letter to be sent to the City Administrator asking for more appropriate office space for the staff. All of these requests were denied by the Mayor's finance office and the City Administrator.

In March the Board upheld the Police Department's denial of a billiard parlor permit for a bar on 29th Street, with 14 people testifying. On the same calendar the Board upheld a determination that Sectorbase.com is a multi-media business at 2701 16th Street, which is consistent with the M-1 zoning. By this time the Planning Commission and the Board of Supervisors were working on new regulations to govern non-office high-tech uses in the South of Market and to require them to pay fees in the way office developments must, and support affordable housing, child care facilities and transit efforts.

In mid-March the Board overruled a denial by the Planning Commission of an alteration permit for a small balcony on a single-

family house and granted the permit on condition the plans be revised and the depth of the balcony be reduced one foot. The neighbors who had requested discretionary review (DR) by the Planning Commission testified with their attorney in support of the Planning Commission action and went to the Board of Supervisors for an amendment to Section 14 of Part III of the Municipal Code so that in the future DR requesters who are adjacent neighbors will be treated as principals in the permit applicant's appeals, and such neighbors will have full notice of the Board's actions and be able to request rehearings, which is not presently the case. The amendment is expected to become effective during September 2000.

Also in March 2000 the Board heard at length from 10 speakers on a protest appeal of a residential alteration permit on Edgehill Way, an area subject to special inspections and Building Code requirements because of landslide hazards. The Board overruled the issuance of the permit, requiring the applicant to go through the permit process again, this time consistent with the special legislation protecting the area.

Fourth Quarter

In April 2000 the Board voted to set aside its rules and to hear a second request for rehearing which was granted. The rehearing was granted and set for May 24 and then put over into the new fiscal year with an expectation that the matter will be settled between the appellant/tenant and the respondent/landlord. Also in April a non-profit agency serving minority teens was able to keep

its offices on Divisadero when the Board overruled the Zoning Administrator's determinations denying the right to use the third floor for an office and requiring Conditional Use (CU) for second floor office use. The Board hearing resulted in a re-analysis of the subject building leading to a double win for the non-profit, with its use being allowed without a new CU approval. Fifteen speakers testified at the Telegraph Hill Dwellers' appeal of a determination allowing a new restaurant featuring exotic dancers in North Beach without CU approval. On a split vote the Board upheld the Zoning Administrator's determination. The decision turned on the fact that the Police did not find it to be an adult entertainment under the Police Code, therefore not required to have CU authorization from the Planning Commission.

Later in April, after testimony from 19 persons, the Board upheld the denial by the Planning Commission of a proposal to demolish an old house on Potrero Hill and replace it with a new two-family house that the Commission deemed out of scale with the neighborhood. The Board had given the project sponsor many months to redesign it within the Residential Design Guidelines, but the minor changes proposed were not sufficient to get four votes to overrule the denial.

In May 2000 the Board heard the Twin Peaks Improvement Association appeal of a Zoning Administrator determination that the owners of Sutro Tower did not need to file a CU application for approval of a permit covering recent alterations for high density television broadcasting. The Board upheld the Zoning Administrator

on a unanimous vote after 29 people testified. It is expected that the appellant will seek a writ in Superior Court on this issue.

On May 31, 2000, the Board upheld the suspension of a sign permit at 1900 Van Ness which was in violation of the sign requirements of the Planning Code. This was one of several sign cases resulting from new technology in the sign industry making larger signs possible, many in violation of the 1965 sign ordinance, Article 6 of the Planning Code. Commissioner El Qadah called on the Planning Department to increase its efforts to implement the sign controls in the face of the abuses coming to light.

On June 14, 2000, the Board heard 25 people testify in an appeal of permits for a 10-unit live/work building at 993 Tennessee Street which had been denied by the Planning Commission, who wanted the height of the project lowered. The Board overruled the Planning Commission and ordered the granting of the permits with the original height intact.

Finally, the Board thanked Annette Snyder, the official court reporter for Fiscal Year 1999-2000, for her efforts. She decided not to renew her contract for another year.

Departmental Representatives at Public Hearings

The Planning Department was ably represented by Mary Gallagher, Zoning Administrator until January 2000, then by Acting Zoning Administrator and Planning Director Gerald Green, and then by Lawrence Badiner who was appointed Zoning Administrator in

April; the Department of Building Inspection by Chief Building Inspector Laurence Kornfield, assisted by Senior Building Inspector Rafael Torres-Gil; and the Police Department by Sgt. William Coggan, under the direction of Lt. Edmond Pecinovsky of the Police Department's legal division. The Board was advised on legal matters at each hearing by Judith Boyajian, Deputy City Attorney, the head of the City Attorney's land use team.

Budget

The department operated within its budget of \$347,714 without the need for supplemental appropriations. The proposed budget for Fiscal Year 2000-2001 submitted in February to the Mayor and approved in June by the Board of Supervisors was slightly more than the budget for the FY 1999-2000, \$366,556. During Fiscal Year 1999-2000 the Board collected \$50,100 in fees, the only source of revenue for the department, which is deposited in the General Fund. This represents an 11% increase above last year's revenue, due to an increase in appeals of Zoning Administrator determinations during a year of several changes in that office.

Staff

The clerical staff continues to perform extraordinarily well under a challenging work load. Catherine Johnson, principal clerk, has superbly handled staff training, Payroll, Controller, Purchasing, and Human Resource procedures, as well as directly

managing the appeals processing. Linda Laws, legal secretary, had serious medical problems, and a reduced schedule, and expertly handled appeals, the telephones and the public and was ably backed by Linda Novoa-Huf, senior clerk typist. Ms. Huf missed seven months on extended maternity leave. Xiomara Velez continued to assist during these periods of absence, and has remained with us into the new year. Victor F. Pacheco joined us during Ms. Laws' illness and absence, and filled in magnificently. Under Ms. Johnson's able direction, the staff has managed to keep the appeals process flowing smoothly, with minimum inconvenience to the public, and in spite of budget restrictions and an increase in filings in second half of the year.

Web Site

Proposition G adopted in 1999 required all departments to post calendars and minutes for the past three years on a departmental web site, and the Board has met its obligations. With a special scanner, we were able to meet the City Attorney's June deadline. The web page also has our basic flyer and the process for filing an appeal.

It remains the intention of the Board and staff to continue to strive for excellence in serving the public, with strict attention to all legal requirements of the process, and with compassion and respect for the human beings involved.

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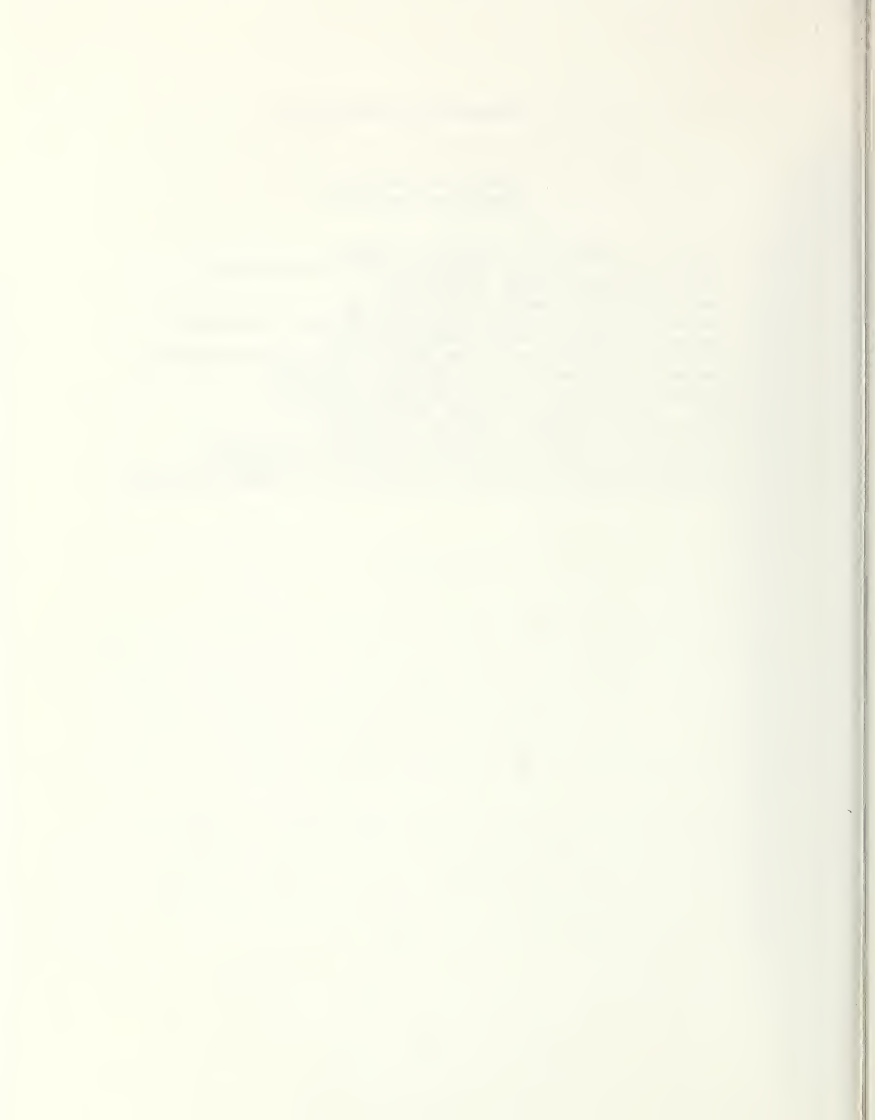
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Respectfully submitted,

Robert H. Feldman,
Executive Secretary

cc: Willie L. Brown, Jr., Mayor (3 copies)
Tom Ammiano, President of the Board of Supervisors
Commissioners - Board of Appeals
Judith Boyajian, Deputy City Attorney
Anita Theoharis, President of the Planning Commission
Lawrence Badiner, Zoning Administrator
Frank Chiu, Director of the Dept. of Building Inspection
Laurence Kornfield, Chief Building Inspector
Rafael Torres-Gil, Senior Building Inspector
Sgt. William Coggan, Police Legal Division
San Francisco Public Library (2 copies)
Guy Hollins, Mayor's Office of Economic Development
Christine Reagan, Budget Analyst, Mayor's Office
Andrea Gourdine, Director of the Dept. of Human Resources



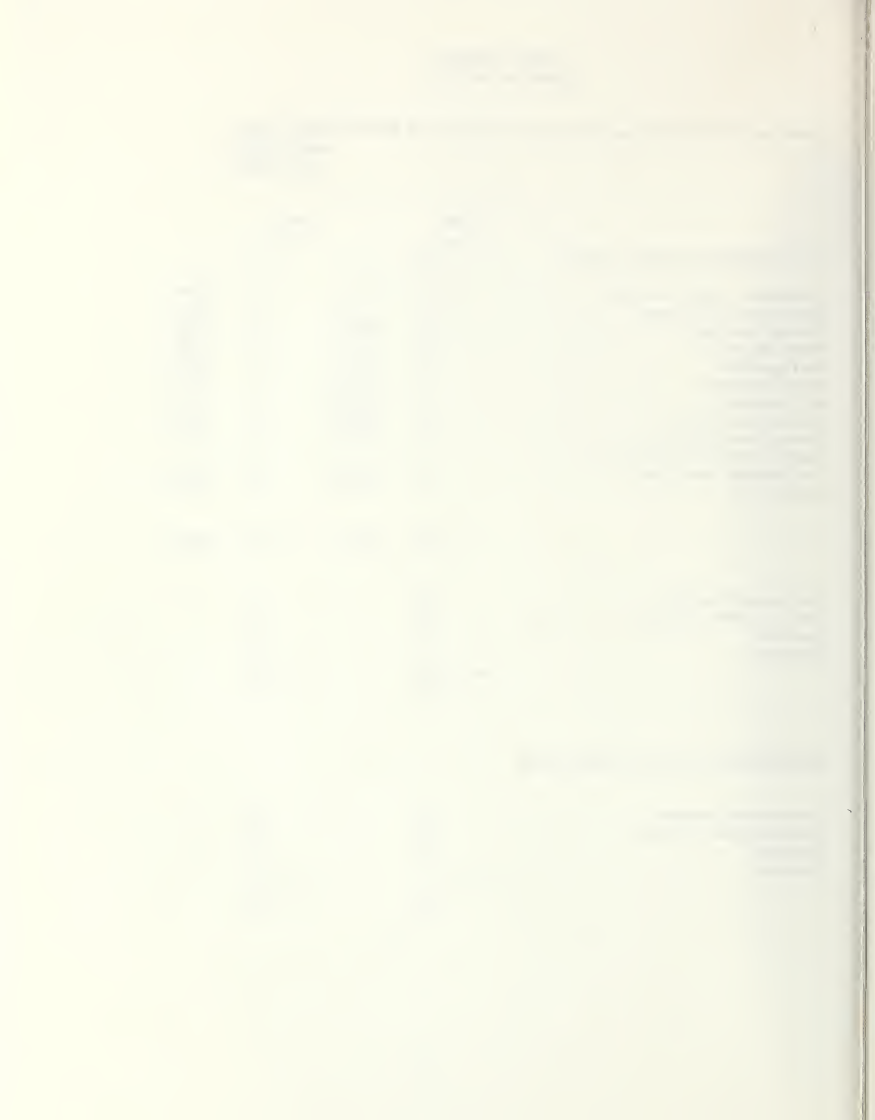
ANNUAL REPORT
BOARD OF APPEALS

COMPARATIVE STATISTICAL ANALYSIS OF APPEALS FILED FOR FISCAL YEARS
1998 TO 1999
1999 TO 2000

	'98/99		'99/00	
	-----		-----	
TOTAL NUMBER OF APPEALS FILED	195		173	
Department of Building Inspection	141	72.3%	108	62.4%
Department of Public Works	2	1.0%	4	2.3%
Planning Department	32	16.4%	43	24.9%
Police Department	18	9.2%	12	6.9%
Fire Department	0	0.0%	0	0.0%
Health Department	1	0.5%	1	0.6%
Art Commission	1	0.5%	2	1.2%
Redevelopment Agency	0	0.0%	0	0.0%
Housing Inspection Division	0	0.0%	0	0.0%
Interdepartmental Staff Committee				
on Traffic and Transportation	0	0.0%	0	0.0%
Urban Forestry	0	0.0%	3	1.7%
	-----		-----	
	195	100.0%	173	100.0%
Overruled with conditions *	85		41	
Overruled without conditions	25		23	
Concurred	64		94	
Withdrawn	21		15	
	-----		-----	
	195		173	

DEPARTMENT OF BUILDING INSPECTION

Overruled with conditions *	67	29
Overruled without conditions	11	18
Concurred	41	51
Withdrawn	11	10
	-----	-----
	130	108



COMPARATIVE ANNUAL REPORT FISCAL YE ARS 1998 TO 1999 AND 1999 TO 2000

DEPARTMENT OF PUBLIC WORKS

	'98/99	'99/00
	-----	-----
Overruled with conditions	10	2
Overruled without conditions	3	0
Concurred	0	1
Withdrawn	1	1
	-----	-----
	14	4

PLANNING DEPARTMENT

Overruled with conditions *	5	11
Overruled without conditions	9	10
Concurred	14	20
Withdrawn	3	2
	-----	-----
	31	43

POLICE DEPARTMENT

Overruled with conditions *	1	5
Overruled without conditions	0	0
Concurred	7	6
Withdrawn	10	1
	-----	-----
	18	12

FIRE DEPARTMENT

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	-----	-----
	0	0

HEALTH DEPARTMENT

Overruled with conditions *	0	1
Overruled without conditions	0	0
Concurred	1	0
Withdrawn	0	0
	-----	-----
	1	1



COMPARATIVE ANNUAL REPORT FISCAL YEARS 1998 TO 1999 AND 1999 TO 2000

ART COMMISSION

Overruled with conditions *	0	0
Overruled without conditions	0	2
Concurred	1	0
Withdrawn	0	0
	<hr/>	<hr/>
	1	2

REDEVELOPMENT AGENCY

Overruled with conditions*	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
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	0	0

DIVISION OF APARTMENT AND
HOTEL INSPECTION

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
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INTERDEPARTMENT STAFF COMMITTEE ON
TRAFFIC AND TRANSPORTATION

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
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URBAN FORESTRY

Overruled with conditions *	0	2
Overruled without conditions	0	0
Concurred	0	1
Withdrawn	0	0
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COMPARATIVE ANNUAL REPORT FISCAL YEARS 1998 TO 1999 AND 1999 TO 2000

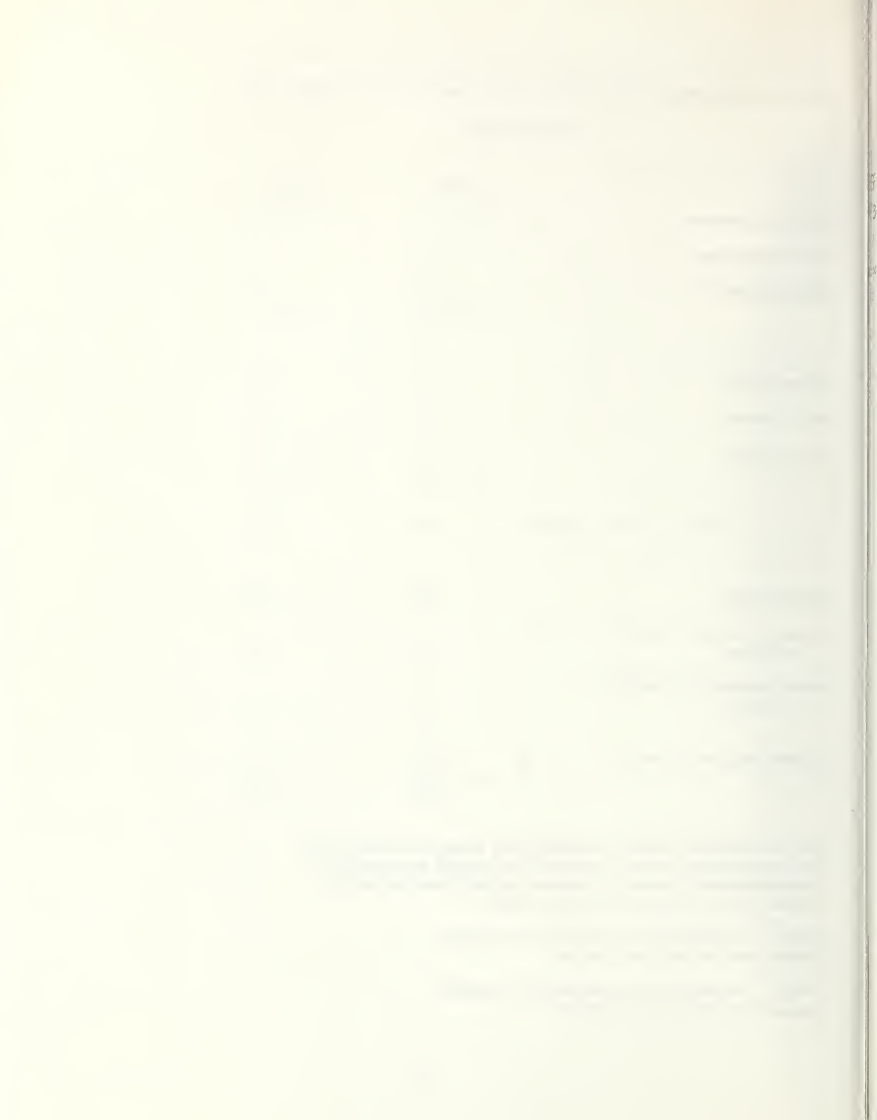
OTHER ACTIONS

	'98/99	'99/00
Rehearings Withdrawn	2	0
Rehearings Granted	12	2
Rehearings Denied	26	29
	40	31
Further Hearings	30	81
Site Inspections	0	0
Court Remands	0	0
	30	81
TOTAL OTHER ACTIONS	70	112
Matters Pending	28 **	28 ***
Appeals Not Accepted (Lack of Jurisdiction)	5	16
Appeals Accepted but Board had No Jurisdiction	5	3
Appeals Continued at Hearings	94	99
	142	146

*NOTE: A majority of appeals in this category are actually concurrences with the Department with only minor conditions. For example, any change in the amount of a penalty assessed for work done without a permit renders that decision in the "Overruled with conditions" column.

**NOTE: Additional appeals processed but no decision released during the fiscal year 1998-1999.

***NOTE: Additional appeals processed but no decision released during the fiscal year 1999-2000.





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CITY AND COUNTY OF SAN FRANCISCO

BOARD OF APPEALS

ANNUAL REPORT

JULY 1, 2000-JUNE 30, 2001





CITY AND COUNTY OF SAN FRANCISCO
WILLIE L. BROWN, JR., MAYOR
BOARD OF APPEALS 2000-2001

COMMISSIONERS

Arnold Y. K. Chin, President
Sabrina N. Saunders, Vice President
John E. McInerney, III, Commissioner
Carole S. Cullum, Commissioner
Allam M. El Qadah, Commissioner

STAFF FOR 2000-2001

Catherine B. Johnson, Principal Clerk	(1408)
Victor F. Pacheco, Senior Clerk Typist, then Special Assistant VIII	(1426, then 1367)
Linda F. Laws, Legal Secretary I	(1458)
Xiomara Velez, Sr. Clerk Typist (part-time as needed)	(1426)
Linda Novoa-Huf, Sr. Clerk Typist	(1426)
Robert H. Feldman, Executive Secretary	(1575)

Easteller Bruihl, Official Court Reporter (annual contract approved by Civil Service Commission, Purchaser and AO and City Attorney for 2000-2001)



STATEMENT OF PURPOSE & MISSION

The mission of the Board of Appeals, a quasi-judicial body created originally under the Charter of 1932, is the processing, hearing and deciding of appeals of departmental decisions involving the granting, denial, suspension, or revocation of permits, licenses, and other use entitlements by various commissions, departments, bureaus, agencies and officers of the City and County of San Francisco. The granting or denial of variances and other determinations of the Zoning Administrator and discretionary review decisions and downtown building authorizations of the Planning Commission are included.

AUTHORIZATION & PROCEDURES:

The Board of Permit Appeals' regulations are contained in Part III of the Municipal Code, Article 1, Permit Procedures. The new Charter, effective July 1, 1996, retained the Board, and changed its name to the Board of Appeals and the department head's title from Executive Director to Executive Secretary. (Sec. 4.106). Specific rights of appeal to the Board are also set forth in the Building, Planning, Public Works, Police, Health, Plumbing and Electrical Codes. The following are examples of the diversity of matters appealed:

- building permits for new commercial and residential buildings
- alteration permits for rear decks and room additions to



residential buildings

- demolition permits to clear lots for construction and determinations for unlawful demolitions
- rear yard and parking variances, to legalize dwelling units
- pushcart permits
- entertainment, dance hall, and after hours permits
- taxicab medallions and taxi driver permits
- horse-drawn vehicle permits
- refuse collection permits for federal facilities
- restaurant permits
- mechanical amusement device and billiard parlor permits
- business sign, awning, and billboard permits
- street artist permits
- public service kiosk and street furniture permits
- sidewalk merchandise display permits

In addition, the Board rules on interpretations and determinations of the Planning Code by the Zoning Administrator as well as on appeals of investigation fees (penalties) levied by the Department of Building Inspection for work done without the required permit.

Under the new Charter the Board lost jurisdiction over permits issued by the Recreation and Park Department and the Port Commission, as well as any building or demolition permits issued pursuant to a Conditional Use Authorization by the Planning Commission.



Regular public hearings were held this year three Wednesdays a month beginning at 5:30 p.m. (changed to 5:00 p.m. on Nov. 7, 2001) in Room 416 in City Hall, One Dr. Carlton B. Goodlett Place. At scheduled hearings the appellants, permit holders and concerned citizens, and departments present their cases and respond to questions from the Board. Although many matters are resolved at the initial hearing, a sizeable number require a further hearing, and in some cases, a site visit by Board members is necessary. Meetings may last as late as midnight, with as many as nine or ten appeals on a calendar.

Several years ago, the Board instituted a policy of hearing all cases involving a specific department in sequence. This practice has resulted in reducing overtime costs for departmental officials, especially police officers, who are required to attend the Board's hearings, for matters relevant to the Department.

During this year the Board continued its practice of having the Official Court Reporter at the beginning of each meeting swear or affirm in all those intending to testify at any hearing that night, and to repeat this during the evening as necessary to insure all who testify are sworn or affirmed.

This fiscal year the Board processed 264 appeals. Many involved more than one department, and required, on the average, the resolution of several different issues, making the workload of the Board the resolution of hundreds of issues.

The attached statistical breakdown shows the overall nature and final disposition of appeals decided by the Board during the



fiscal year.

MBO Performance: The Board has consistently met or exceeded its MBO goals since their inception, and intends to continue performing to a high standard. The MBO goal for the Board has been to issue 95% of its final written decisions within thirty days of the final decision by the Board, and to schedule a hearing within 45 days of filing. We are somewhat concerned with the ever increasing, costly, complicated and time consuming legal burdens placed upon the Board both by the nature of appeals, the City Attorney's office, and the Sunshine Ordinance, but will continue to strive to serve the public and reach our goals. The frequency of litigation results in the need for more complete documentation of cases and the adoption of written findings by the Board in a growing number of cases.

Narrative of the year's activities-Introduction:

Throughout the year at its 36 meetings the Board considered the usual variety of appeals: protests of issued building and demolition permits, penalties (investigation fees) imposed by the Department of Building Inspection, suspensions and revocations of Police permits, Zoning Administrator determinations, and decisions granting and denying zoning variance applications, as well as various Public Works Department decisions on permits for street trees and sidewalk table/chair encroachments. Each meeting agenda has, in addition, items involving requests for rehearings, requests for jurisdiction, and the adoption of findings for cases already decided. The following narrative describes some of the more



significant decisions and activities of the year.

1st Quarter: July 1, 2000 to Sept. 30, 2000

Our new Official Court Reporter Easteller Bruihl began with our first hearing July 12, having replaced Annette Snyder who chose not to renew her contract for a second year.

The Director of Planning attended meetings as acting Zoning Administrator (ZA) representing the Planning Department and Commission; Judith Boyajian, Deputy City Attorney, and Laurence Kornfield, Chief Building Inspector continued to attend Board meetings, representing the Office of the City Attorney and the Dept. of Building Inspection, respectively.

Thirteen people testified at an appeal of a ZA determination that a commercial catering kitchen employing minority women in the Mission could not be approved in an RH-2 zoning district even if it is used for start-up businesses of Latinas seeking financial independence. The Board expressed support for the use but continued the hearing to allow for a solution to be worked out to allow the socially beneficial facility to be approved within the Code. Also during July the Board decided a protest of a proposed bay window on a house, hearing intense neighborhood opposition. The abutting neighbors who had filed for Discretionary Review (DR) before the Planning Commission asked to be considered as principals so that they could testify for seven minutes, with three minutes of rebuttal. After the matter was concluded, the neighbors went to the Board of Supervisors with their request and their request was enacted and approved by the Mayor, amending Section 14 of Part III



of the Municipal Code, and requiring the Board to deem those who requested DR and prevailed in whole or in part at the Planning Commission, and whose property abutted the subject property, principals to an appeal as to time for testimony, notice, and power to request a rehearing.

Also at the time the Board heard the first of several appeals of revocations by the Taxicab Commission of taxicab medallions for failure to fulfill the driving requirements. The United Taxicab Workers testified at each hearing in support of the Commission's actions, urging the Board to uphold the revocations to free up medallions for those on the list of applicants, some of whom have been waiting years for a medallion. The Board strongly recommended that the Commission adopt a template with graduated penalties for infractions of their rules to give applicants a fair chance to correct their mistakes and retain their medallions, which often provide the only source of income of families. In several taxicab appeals, the Board reduced the harsh revocations to suspensions to impress on medallion holders the need for them to comply with the regulations to drive their cabs the requisite number of hours.

During August the Board decided one of several appeals of ZA determinations interpreting the Planning Code definition of ~~business service uses~~ and when they are really office uses, requiring all the fees necessary for new office or converted office uses. By the end of the year the Planning Code had been amended to clarify these definitions and no more appeals of this type are expected.



In September the Board heard the first of many appeals filed by the Committee for Jobs, Arts and Housing, and San Franciscans for Reasonable Growth, and others, of live-work loft buildings in the South of Market, Mission and Potrero Hill districts. These hearings were heated and after several hundred units had been approved, the Board of Supervisors enacted interim controls effective Feb. 23, 2001, which prohibit City Departments, including the Board of Appeals, from approving any more live-work loft projects.

2nd Quarter: Oct. 1, 2000 to Dec. 31, 2000

The Executive Secretary suffered a serious illness September 5th and on Sept. 6th began a four-month medical leave that ended when he returned to his desk Feb. 7, 2001. During his absence President Chin stepped in as acting director to lead the department and its staff in keeping the appeals process going, with Cathy Johnson, principal clerk, Linda Laws, legal secretary, and Victor Pacheco, senior clerk typist, working tirelessly under a heavy volume of appeals. During one period, the Board met 13 straight Wednesdays without a break, demonstrating admirable endurance of the Commissioners and the staff. President Chin requested that the secretary of the Planning Commission, Linda Avery, step in as acting Executive Secretary, providing relief for the Commissioners. The Board of Supervisors would not approve supplemental funding for the move so Ms. Avery returned to the Planning Commission just as the Executive Secretary returned to duty. It was a trying period for all, but the work went on and parties continued to have an



administrative review process of the highest quality. None of the decisions made by the Board during this period were overruled by the Superior Court. The staff especially appreciated the support of Commissioner Cullum during this period.

The Board upheld the issuance of the permits for the live-work units, sometimes with conditions requiring owners to record notices of special restrictions on the land records giving notice of nearby industrial facilities, to insure that purchasers understand the nature of the industrial neighborhood they were moving into without surprises later from noise, fumes, dust, trucks, and buses all night long. Commissioner Cullum led the Board in imposing conditions on some of the permits upheld to mitigate their impacts on neighboring businesses and residents.

3rd Quarter: Jan. 1, 2001 to Mar. 31, 2001

During January the Board heard the usual variety of appeals including one regarding a DPW order to replace a street tree (denial upheld), and appeals of penalties imposed by DBI for work done without a permit, on a consent calendar with the cooperation of DBI. Throughout the year on the first meeting of the month, the Board decided penalty appeals on consent calendars, a practice begun several years ago that expedites these matters with the approval of the parties and departments involved.

Also during January the Board heard appeals of alteration permits for the removal of illegal units and decided these cases often with conditions imposed to allow tenants to remain in their apartments as long as possible while upholding properly issued



permits to abate nuisances, violations of the Planning and Building Codes.

In February there was a flood of live-work appeals heard just before the Supervisors' moratorium went into effect again with heated testimony and vigorous discussion by the Commissioners before the permits were upheld. Two hearings were held on decisions by the Director of DBI that demolitions were unlawful for the lack of approved demolition permits and the Board overruled them with the understanding that the DBI is developing new guidelines and procedures to aide the inspectors and contractors in determining when an alteration becomes a demolition so that unlawful demolition decisions will not be necessary. The severe penalties imposed for these determinations can leave a lot vacant for five years, which is not desirable for the neighborhood or for the property owner.

The Board heard a tough appeal in February concerning a determination by the ZA that a neighborhood shop had been abandoned. The owners disagreed and wanted to continue its use. Sixteen neighbors testified against the appellant and the Board upheld the determination on a 2-2 split vote.

The appeal of a permit for construction of a 6-unit apartment house in North Beach took several hearings and negotiations coordinated by Chief Building Inspector Kornfield before the Board could uphold the permit with a list of conditions regulating the construction program in a manner acceptable to all parties.

Also in February the Board submitted its proposed budget for



fiscal year 2001-2002 after a public hearing. The Mayor's Office of Budget and Finance was responsive to our requests. Through the efficient and professional management of the Board's funds, our principal clerk Cathy Johnson managed to obtain five new work stations and two new computers, as well as a legal assistant to work with the executive secretary, a position recommended by the Commissioners, without any additional funding but with the loss of our legal secretary.

4th Quarter: April 1, 2001 to June 30, 2001

During April the Board amended its Rules to allow the president to appoint an acting vice president in the absence of the sitting vice president, after a medical leave of our Vice President in February and March pointed out the need for such a provision.

Later in April the Board concurred in a controversial variance decision by the ZA which allowed for a subdivision for residential development of a parcel on Potrero Hill that had been maintained as an informal wildlife refuge by a neighbor. Eleven committed people testified for the bird and butterfly species that might be displaced and the Board upheld the variance, reminding the protestors that the Board does not have the power to take land even for such an ecologically beneficial use. The project later floundered when the Board of Supervisors denied the owner's subdivision map.

Also in April the Board adopted a Code of Conduct to protect Commissioners from willfull attack and disrespectful comments



during public meetings, as recommended by the Civil Service Commission.

In May the Board faced a difficult decision in an appeal of the request by the ZA for the suspension of an issued site permit approved inadvertently by Planning the same day a request for DR was filed. The project was the change in use of the 16th Street armory after years of vacancy. The Board continued the matter to allow time for the permit holder to go to the Planning Commission for a DR review, and then it overruled the suspension and allowed the project to go forward. The cooperation of the permit holder, a concerned neighborhood group, and the Planning Commission were all necessary to carry this out and it was an example of the process working to meet the needs of many parties. Fifteen people spoke at the hearing which lasted 2 hours.

Later in May the Board upheld a site permit for a home designed by a well known east coast architect over the protesst of a neighbor whose view will be lost. The cultural and economic variety of neighborhoods in the City keep public hearings intense and demanding throughout the year, with Mission District and Pacific Heights' sites before the Board often at consecutive meetings, as above.

At the last May meeting the scene shifted to the northern waterfront for an appeal of a determination that a recreational attraction needed conditional use (CU) authorization by the Planning Commission. The Board decided that instead of filing a new CU application, the appellant should clarify the original CU



conditions with the ZA to see how the use is regulated under those conditions so that his application to BCDC can go forward expeditiously.

During June the Board heard a controversial protest appeal of a permit to build a 4-level 2-unit building on Randall Street and voted 5-0 to uphold the permit after taking testimony from 23 people. The Board overruled the Planning Commission' requirement that the proposed 4th story be deleted.

At the last meeting of the fiscal year the Board granted one request to allow a late filing, and overruled an unlawful demolition determination by the Director of the DBI, and upheld the denial of a permit to allow a massage and spa establishment in the Bay View.

Throughout the year the Board heard taxicab medallion revocations, appeals of denied variances, penalties imposed, and protests of permits issued for residential projects that are alleged to be out of character with the neighborhood.

The Board made its decisions in light of the Building, Planning, Police and Public Works Codes, as well as under the Residential Design Guidelines, and interim controls or regulations. The executive secretary returned to duty in early February, and Ms. Avery returned to her duties with the Planning Commission with the thanks of the Board for her service.

During the year Commissioner McInerney urged the Board and the staff within the limits of regulations, to expedite the process, while Commissioner Cullum and Vice President Saunders sought the



maximum relief possible for tenants threatened with eviction, and Commissioner El Qadah showed his concern for small businesses impacted by City regulations and for commercial sign issues. President Chin sought to maintain a collegial tone to the Board's deliberations, often difficult in light of the forceful personalities of the members.

In June, Linda Laws, legal secretary, accepted a position with the Board of Supervisors after 11 years with the Board. She rose to the occasion during the fall absence of the executive secretary and shared attendance at Board meetings with the principal clerk Cathy Johnson. Fortunately special assistant Victor Pacheco was able to assume the legal secretary duties and there was a smooth transition into the new fiscal year with no break in appeals processing or any inconvenience to the public.

Also in June, receptionist/clerk typist Lynn Huf accepted a position with DBI, leaving the office with no receptionist.

During this tumultuous year Cathy Johnson trained, attended hearings and coordinated the appeals process, as well as her work meeting the requirements of the Mayor's Office, the Controller, the purchaser, DHR and all her other miscellaneous duties, under extreme pressure from attorneys, developers, and the public because of the volume of appeals of live-work buildings, and in the absence of the executive secretary. The Board and the City are greatly in her debt.

Departmental representatives at public hearings: The Planning Department was ably represented by Larry Badiner, Zoning



Administrator and Assistant Director of Planning - Implementation, backed up by Planning Director Gerald Green; the Department of Building Inspection by Chief Building Inspector Laurence Kornfield, assisted by Senior Building Inspector Rafael Torres-Gil; and the Police Department by Sgt. William Coggan of the Police Department's legal division.

The Board was advised on legal matters at each hearing by Judith Boyajian, Deputy City Attorney, the head of the City Attorney's land use team.

Code Amendment: In January 1996 the Board of Supervisors enacted and in February 1996 Mayor signed legislation that amended the regulations under which the Board of Appeals operates. For twenty years, the Code (Section 8 of Part III of the Municipal Code) has required that the Board schedule hearings between five and fifteen days after an appeal was filed, so that permit holders, departments and concerned parties were not delayed unduly by the appeals process. The Board of Supervisors, acting on recommendations from neighborhood activists, and with no opposition from builders, amended the provision to require scheduling of appeals between ten and forty-five days, giving concerned parties more time to prepare for hearings. The amendment has been implemented with no complaints from the parties to appeals. In March 1997 the Board of Supervisors enacted Ordinance No. 128-97 which brought the relevant sections of Part III into conformity with the new charter provisions.



It remains the intention of the Board and staff to continue to strive for excellence in serving the public, with strict attention to all legal requirements of the process, and with compassion for the human beings involved.

Respectfully submitted,

Robert H. Feldman,
Executive Secretary

cc: Commissioners - Board of Appeals
Larry Badiner, Zoning Administrator
Judith Boyajian, Deputy City Attorney
James Hutchinson, Deputy Director of DBI
Laurence Kornfield, Chief Building Inspector, DBI
Sgt. William Coggan, Legal Division, Police Dept.
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**ANNUAL REPORT
BOARD OF APPEALS**

**COMPARATIVE STATISTICAL ANALYSIS OF APPEALS FILED FOR FISCAL YEARS
1999 TO 2000
2000 TO 2001**

	'99/00		'00/01	
TOTAL NUMBER OF APPEALS FILED	173		274	
Department of Building Inspection	108	62.4%	174	63.5%
Department of Public Works	4	2.3%	4	1.5%
Planning Department	43	24.9%	74	27.0%
Police Department	12	6.9%	21	7.7%
Fire Department	0	0.0%	0	0.0%
Health Department	1	0.6%	1	0.4%
Art Commission	2	1.2%	0	0.0%
Redevelopment Agency	0	0.0%	0	0.0%
Housing Inspection Division	0	0.0%	0	0.0%
Interdepartmental Staff Committee on Traffic and Transportation	0	0.0%	0	0.0%
Urban Forestry	3	1.7%	0	0.0%
	173	100.0%	274	100.0%
Overruled with conditions *	41		38	
Overruled without conditions	23		40	
Concurred	94		134	
Withdrawn	15		62	
	173		274	

DEPARTMENT OF BUILDING INSPECTION

Overruled with conditions *	29	29
Overruled without conditions	18	23
Concurred	51	102
Withdrawn	10	20
	108	174



COMPARATIVE ANNUAL REPORT FISCAL YEARS 1999 TO 2000 AND 2000 TO 2001

DEPARTMENT OF PUBLIC WORKS

	'99/00	'00/01
Overruled with conditions	2	2
Overruled without conditions	0	0
Concurred	1	1
Withdrawn	1	1
	<hr/> 4	<hr/> 4

PLANNING DEPARTMENT

Overruled with conditions *	11	17
Overruled without conditions	10	21
Concurred	20	27
Withdrawn	2	9
	<hr/> 43	<hr/> 74

POLICE DEPARTMENT

Overruled with conditions *	5	1
Overruled without conditions	0	4
Concurred	6	5
Withdrawn	1	11
	<hr/> 12	<hr/> 21

FIRE DEPARTMENT

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	<hr/> 0	<hr/> 0

HEALTH DEPARTMENT

Overruled with conditions *	1	0
Overruled without conditions	0	1
Concurred	0	0
Withdrawn	0	0
	<hr/> 1	<hr/> 1



COMPARATIVE ANNUAL REPORT FISCAL YEAR 2000 TO 2001

ART COMMISSION

Overruled with conditions *	0	0
Overruled without conditions	2	0
Concurred	0	0
Withdrawn	0	0
	-----	-----
	2	0

REDEVELOPMENT AGENCY

Overruled with conditions*	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	-----	-----
	0	0

DIVISION OF APARTMENT AND
HOTEL INSPECTION

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	-----	-----
	0	0

INTERDEPARTMENT STAFF COMMITTEE ON
TRAFFIC AND TRANSPORTATION

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	-----	-----
	0	0

URBAN FORESTRY

Overruled with conditions *	2	2
Overruled without conditions	0	0
Concurred	1	1
Withdrawn	0	1
	-----	-----
	3	4



COMPARATIVE ANNUAL REPORT FISCAL YEARS 1999 TO 2000 AND 2000 TO 2001

OTHER ACTIONS

	'99/00	'00/01
Rehearings Withdrawn	0	0
Rehearings Granted	2	8
Rehearings Denied	29	23
	31	31
Further Hearings	81	52
Site Inspections	0	0
Court Remands	0	0
	81	52
TOTAL OTHER ACTIONS	112	52
Matters Pending	28 **	20 ***
Appeals Not Accepted (Lack of Jurisdiction)	0	4
Appeals Accepted but Board had No Jurisdiction	16	4
Appeals Accepted (Jurisdiction granted)	3	5
Appeals Continued at Hearings	99	52
	146	85

*NOTE: A majority of appeals in this category are actually concurrences with the Department with only minor conditions. For example, any change in the amount of a penalty assessed for work done without a permit renders that decision in the "Overruled with conditions" column.

**NOTE: Additional appeals processed but no decision released during the fiscal year 1999-2000

***NOTE: Additional appeals processed but no decision released during the fiscal year 2000-2001.



CITY & COUNTY
OF SAN FRANCISCO

BOARD OF APPEALS
ANNUAL REPORT

JULY 1, 2001-JUNE 30, 2002

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CITY AND COUNTY OF SAN FRANCISCO
WILLIE L. BROWN, JR., MAYOR
BOARD OF APPEALS 2001-2002

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Sabrina N. Saunders, Vice President
John E. McInerney, III, Commissioner
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STAFF FOR 2001-2002

Robert H. Feldman, Executive Secretary	(1575)
Catherine B. Johnson, Principal Clerk	(1408)
Victor F. Pacheco, Legal Assistant	(8173)
Marylee Phillips, Sr. Clerk Typist	(1426)
Paul C. Johnson, Sr. Clerk Typist (part-time as needed)	(1426)
Iris Davis, Sr. Clerk Typist (part-time as needed)	(1426)

Easteller Bruhl, Official Court Reporter (annual contract approved by Civil Service Commission, Purchaser, Administrative Officer and City Attorney) for 2001-2002.



STATEMENT OF PURPOSE & MISSION

The Mission of the Board of Appeals, a quasi-judicial body created under the Charter of 1932, is the processing, hearing and deciding of appeals of departmental decisions involving the granting, denial, suspension, and revocation of permits, licenses, and other use entitlements by various commissions, departments, bureaus, agencies and officers of the City and County of San Francisco, including the granting and denial of variances and other determinations of the Zoning Administrator and discretionary review decisions and certain authorizations by the Planning Commission.

AUTHORIZATION & PROCEDURES:

The jurisdiction of the Board is set forth in Section 4.106 of the Charter and the Board of Permit Appeals' regulations are contained in Part III of the Municipal Code, Article 1, Permit Procedures, §§ 1-31, and under the Rules of the Board. The Charter, revised effective July 1, 1996, retained the Board, and changed its name from the Board of Permit Appeals to the Board of Appeals (§ 4.106). Specific rights of appeal to the Board are also set forth in Part III of the Municipal Code, the Building, Planning, Public Works, Police, Health, Plumbing and Electrical Codes. The following are examples of the diversity of matters under the jurisdiction of the Board:

- a) building permits for new commercial and residential buildings
- b) alteration permits for rear decks and room additions to residential buildings
- c) demolition permits to clear lots for construction and determinations of unlawful demolitions
- d) rear yard and parking variances, to legalize dwelling units and allow expansion of houses
- e) pushcart permits
- f) place of entertainment/dance hall keeper, and after hours permits
- g) taxicab medallions and taxi driver permits, and public convenience & necessity findings of the Taxi Commission which determine the number of



medallions issued in the City.

- h) horse-drawn vehicle permits
- i) refuse collection permits for federal facilities
- j) restaurant permits
- k) mechanical amusement device, billiard and massage parlor permits
- l) sidewalk table and chair permits
- m) business sign, awning, and billboard permits
- n) street artist permits
- o) sidewalk tree planting, removal and replacement orders and permits
- p) public service kiosk and street furniture (restroom) permits
- q) sidewalk merchandise display permits
- r) downtown office building authorizations and exceptions

In addition, the Board rules on interpretations and determinations under the Planning Code by the Zoning Administrator as well as appeals of investigation fees (penalties) levied by the Department of Building Inspection for work done without the required permit.

Under the revised Charter of 1996 the Board lost jurisdiction over permits issued by the Recreation and Park Department and the Port Commission, as well as any building or demolition permits issued pursuant to a Conditional Use Authorization by the Planning Commission.

Public hearings were held this year three Wednesdays a month beginning at 5:00 p.m. in Room 416 in City Hall, One Dr. Carlton B. Goodlett Place. At scheduled hearings the appellants, permit holders, concerned citizens, and departments presented their arguments and responded to questions from the Board. Although many matters were resolved at an initial hearing, a sizeable number required further hearing, and in some cases, a site visit by Board members. Meetings lasted as late as midnight, with as many as nine or ten



appeals on a calendar.

Several years ago, the Board instituted a policy of hearing all cases involving a specific department in sequence. This practice has resulted in reducing overtime costs for departmental officials, especially police officers, who are required to attend the Board's hearings for matters relevant to the Department.

During this year the Board continued its practice of having the Official Court Reporter at the beginning of each meeting swear or affirm in all those intending to testify at any hearing that night, and to repeat this process during the evening as necessary to insure all who testify are sworn or affirmed.

This fiscal year the Board processed 278 appeals. Many involved more than one department, and required the resolution of several issues, the Board resolving hundreds of issues during the year.

The attached statistical breakdown shows the nature and final disposition of appeals decided during the fiscal year.

MBO PERFORMANCE

The Board has consistently met or exceeded its MBO goals since their inception, and intends to continue performing to a high standard. The MBO goal for the Board has been to issue 95% of its final written decisions within thirty days of the final action by the Board, and to schedule hearings within 45 days of filing. We remain concerned with the costly, complicated and time consuming legal burdens placed upon the Board both by the nature of appeals, and their resolution and litigation they generate, and by the Sunshine Ordinance, and will continue to strive to efficiently serve the public and reach our goals. Litigation results in the need for more documentation of cases and the adoption of substantial written findings and preparation of preparation of complete administrative



records by the Board. In many cases the final notice of decision at the end of the appeal process is issued by staff within 36 hours of the final Board decision.

NARRATIVE OF YEAR'S ACTIVITIES

INTRODUCTION:

Throughout the year at its 37 meetings the Board considered the usual variety of appeals: protests of issued building and demolition permits, penalties (investigation fees) imposed by the Department of Building Inspection, suspensions and revocations of Police permits, Zoning Administrator determinations, and decisions granting and denying zoning variance applications, as well as various Public Works Department decisions on permits for street trees and sidewalk table/chair encroachments. Each meeting agenda had, in addition, requests for rehearing, requests for jurisdiction, and the adoption of findings for cases already decided. The following narrative describes some of the more significant decisions and activities of the year.

FIRST QUARTER: JULY 1 TO SEPT. 30, 2001

The year began with the meeting of July 11 at which 49 people testified at nine hearings. The most controversial one was an appeal of the denial of a site permit by the Planning Commission of a three-story two-unit house on Randall Street. Twenty-five people testified, including a member of the Board of Supervisors. At the same meeting the Board upheld a site permit to construct a four-story two-unit building on 22nd Street at which six people testified. The issue at these two hearings would be repeated throughout the year, with neighborhood residents protesting plans for new residential buildings because they deemed them out of scale, out of character, and out of compliance with the Residential Design Guidelines (RDG's). In most cases of Planning Commission denial or substantial modifications of plans, the Board overruled the denials or modifications and granted the permit as originally submitted, so long as the plans complied with the Code, in a few cases



requiring more revisions to mitigate the effects of the project on the neighborhood.

Later in July the Board approved a permit for a six-unit apartment house near Chinatown with conditions imposed to mitigate the effect of construction dust on the neighbors, and requiring a contact person to be available to whom the neighbors may turn if they have complaints. Chief Building Inspector Laurence Kornfield was instrumental in working out the conditions with the parties.

In August the Board denied a request from the City Attorney's office to set aside its rules and on its own motion grant a rehearing based on a request from a Supervisor to investigate a decision of the Board regarding live-work units. The City Attorney said that rehearing the matter would result in a different decision that would not generate a writ. The Board stuck to its rules and its interpretation of the case.

The last meeting in August saw the Board overrule a denial by Public Works of an application to replace three street trees with a species that would be less intrusive to sidewalk and sewer lines. This type of appeal occurs several times each year and the Board has traditionally permitted such replacements, often specifying the species to be used to insure that the neighborhood will not be prejudiced by the replacement.

During September thirteen people testified at an appeal brought by artist-tenants of a commercial/industrial building who objected to eviction to allow the owner to correct Building and Fire Code violations. The Board closed the hearing and the matter finally concluded with the withdrawal of the appeal after litigation and an agreement reached between the owner and the tenants, allowing the owner to clear up the fire safety hazards resulting from the illegal residential use of the building. After months of controversy over live-work loft construction, this was the only appeal involving actual artists in a vacant industrial building, artists being the intended beneficiaries of the live-work regulations.



SECOND QUARTER: OCT. 1 TO DEC. 31, 2001

During October the Board overruled a Zoning Administrator determination that a new Section 311 notification was necessary for a residential project that had been completed, for the reason the construction had not been done in conformity with the approved plans. The complaining neighbors were in attendance at the Board hearing and the owner was willing to make changes in the design to meet some of the neighbors' concerns. The Section 311 notice is to allow neighbors to request a Discretionary Review hearing before the Planning Commission. Here the Board exercised its DR powers in requiring revisions to the plans, thus fulfilling the purpose of Section 311.

Later, the Board revoked a permit to legalize the demolition of a barn built without a permit and the construction of a new building in its place, in the required rear yard of the site. The owner needed to obtain a rear yard variance to continue with the project consistent with the Planning Code. Later in the year the Board upheld the plans for the project after a variance had been granted and the proper permits were issued, although the protesting neighbor continued to object to the project because of its proximity to his property.

At the end of October the Board considered the appeals of a Zoning Administrator (ZA) determination that a Tenderloin hotel had lost its non-conforming use status as a tourist hotel and could only be used for residential purposes, even though the owners had renovated it at substantial cost with the intention of tourist use. The appeals resulted in a decision to uphold the ZA's determination and the position of the Tenderloin Housing Clinic, the determination holder, thus preserving affordable housing in a neighborhood in great need of it.

In November the Board revisited a remodeling project in Pacific Heights that had earlier resulted in the Board granting a permit on condition the developer file for a site permit for the entire project and to stop filing a series of alteration permits that confused the issues



and allowed him to undermine decisions of the Planning Commission. Here the Board faced an alteration permit regarding parapets on roof decks disallowed by the Planning Commission. The Board overruled the Commission on condition the appellant record a Notice of Special Restrictions on the land records restricting the use of the decks consistent with the Commission's decision, but allowing the parapets to remain.

Also in November the Board amended its Rules to change the time of their meetings from 5:30 p.m. to 5:00 p.m. in order to allow for earlier adjournments. Several meetings had adjourned after 1030 p.m. and it was expected that an earlier start would result in a more reasonable time for adjournment.

In December the Board granted a permit denied by the Planning Commission for construction of a three-story commercial building in the Mission District to be occupied by a restaurant and a wine distribution business. Approval was over the objections of neighbors and with the support of a nearby business owner, a vocational school, and several restaurant workers. The Board found that the commercial building would benefit the area, which is in need of employment opportunities for its residents as well as investment generally.

During December meetings the Board considered more amendments to their Rules regarding briefing schedules, in order to allow time for appellants to obtain counsel to reply to respondent's briefs while requiring appeals to be scheduled within 45 days of filing as directed by the Code. No Changes were considered to amend the times for presentation of oral arguments at hearings.

The Board considered an especially controversial appeal of a permit for a 3rd floor addition to a one-family house in the Marina and voted to uphold the denial of the permit by the Planning Commission after a public hearing at which 23 people testified. One of the purposes of the proposed addition was to provide rooms in the house for the aged parent of the permit holder and a caregiver. The issue of expansion of residential buildings to



accommodate elderly parents is a recurring one, which will probably become more frequent in the future as the City's elderly population increases and home care is used in light of the cost of institutional care. Such home additions will continue to run into problems if they are not consistent with the Planning Commission's Residential Design Guidelines whose purpose it is to keep construction in harmony with the residential neighborhoods.

THIRD QUARTER: JANUARY 1 TO MARCH 30, 2002

The new calendar year began with the final adoption of the new briefing schedule rules after a public hearing at which four people testified, to go into effect on February 1, and to be reviewed by the Board in 6 months to see if the amendments are effective or need changes. Two controversial appeals were heard on Jan. 9, a meeting that finally concluded after 11pm. The Board overruled the denial of a variance application to allow a garage to be built at the front of a small home once occupied by the photographer Imogen Cunningham who had planted a garden and trees on the site. The present owners are involved in the art world, and the hearing was long, intense, and filled with aesthetic allusions. The same night the Board upheld a Planning Commission denial of a permit to legalize an addition to a house on Telegraph hill, which exceeded the plans approved by the Landmarks Preservation Advisory Board. Twenty people testified and the Board upheld the denial, leaving the owner with the Planning Commission's recommended conditions for legalizing the irregularities by reducing the height of the completed roof deck.

On January 16 the Board overruled the denial of a permit to legalize a 41st unit in an apartment building which it found to be a part of the original construction and intended for a residential manager. Over the course of the year several similar cases came up and the Board liberally interpreted the Codes to preserve affordable housing units while always insuring the health and safety of occupants by having Building Inspection staff make site visits and report back on any hazardous conditions and how they could be abated in order to insure the safety of the occupants of the legalized units.

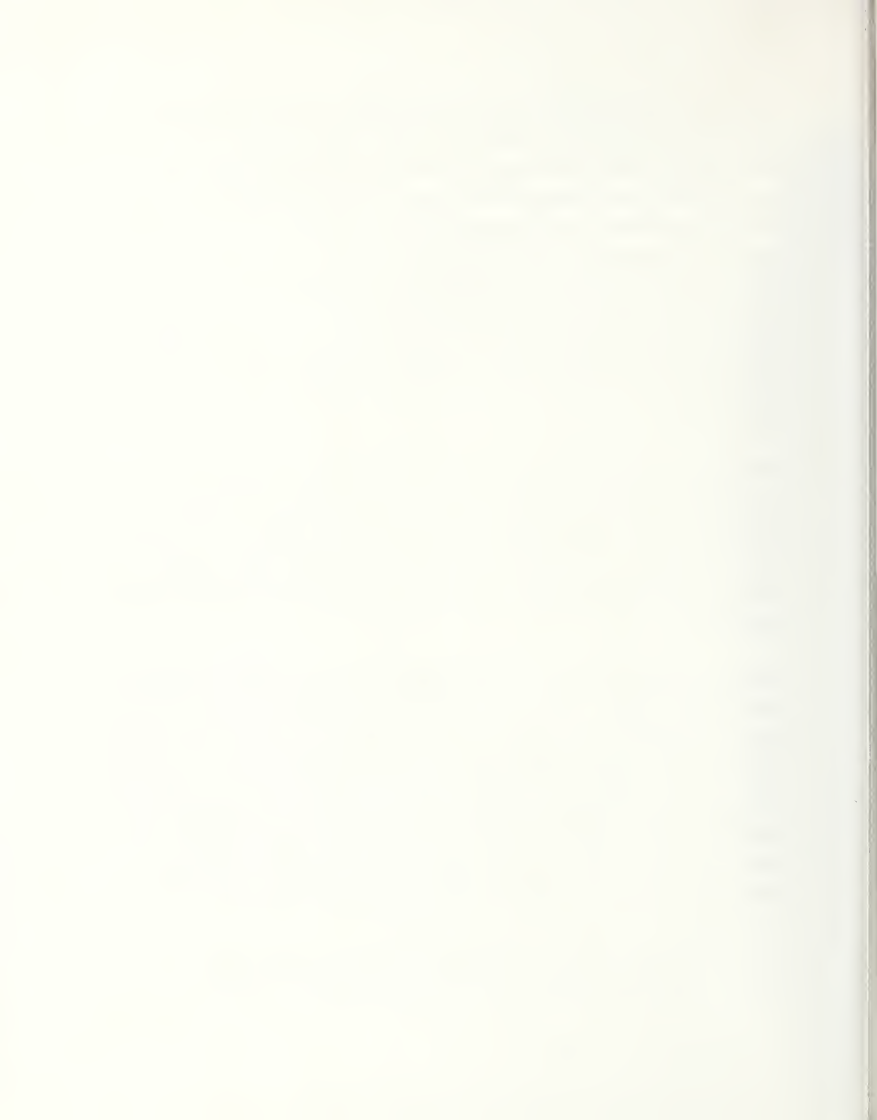


The appeal of a permit to allow a three-story rear addition to a residential building in the Noe Valley led to acrimonious testimony and parties nearly coming to blows, so that Sheriff's deputies were called in to keep order as the parties left the hearing room. The dispute centered on the allegation that the project would extend 8 inches too far towards the rear of the subject lot. The Board required the permit holder to have a survey done to establish the exact location of the project and the lot lines. The appellant went to the Sunshine Ordinance Task Force and the City Attorney with allegations of improper review of the plans by the Planning Commission staff and the Board and he reported the project architect to the State Licensing Board. This appeal was very unusual in its drama, and President Chin rarely had to gavel down obstreperous behavior of parties and witnesses during the year.

At the end of January the Board heard ten appeals of a demolition permit and a site permit to build a large house at Sea Cliff overlooking the ocean. The opposition focused on the hazards of building in a seismically sensitive cliff area and the Board upheld the permits based on reports by a geo-technical expert and by the Chief Building Inspector who explained the thorough procedures used by the DBI in matters of this sort to insure stability of the ground.

In addition, ten Taxi Commission taxi driver permit revocations were handled expeditiously on the consent calendar. Over the year several revocations of taxi medallions led to long hearings as appellants sought to retain their medallions after failing to meet the Code requirements for medallion holders to drive their cabs a minimum number of shifts per year. In the most egregious cases the Board upheld the denials, freeing the medallions for issuance to people on the list, which has more than 1000 names on it. In less serious cases the Board reduced the subject revocations to suspensions, admonishing the appellants to follow the rules or face revocation again with less sympathy from the Board.

At the end of the fiscal year the board heard several appeals of Taxi Commission decisions regarding claims that family members should be considered the rightful holders of



medallions issued to people now deceased. The Board struggled with these cases and found that they did not have jurisdiction to decide them because the subject decisions were neither the granting, denial, revocation nor suspension of a medallion, but rather actions involving the records of the Taxi Commission. At all these matters the United Taxicab Workers' representatives testified on behalf of their drivers on the long list of those awaiting their turn to be issued medallions.

In February the Board overruled a Zoning Administrator determination requiring a North Beach restaurant to obtain Conditional Use Authorization from the Planning Commission before the food service could reopen, having closed after a fire in 1982. The Board found that the food service ended before 1987, and therefore was an automatic CU requiring no additional action by the Planning Commission.

As in years past, in February, the Board adopted the proposed budget for the Department which had been accepted by the Mayor's Finance and Budget Office. There were only minor additions to the last budget in keeping with the Mayor's budget instructions. There was no public comment on this item. The Board proposed an amendment to Section 11 of Part III of the Municipal Code that requires there to be an official court reporter at all Board meetings. The amendment would allow for video and audiotapes to replace the court reporter in a move to reduce the cost of making a record of meetings. The proposal was rejected by the Board of Supervisors who amended the provision to allow a video to be considered an official record of proceedings but retained the court reporter requirement. Under the Sunshine Ordinance all Commission and Board meetings must be audio taped but the Supervisors felt that audiotapes were not a sufficient record because of the difficulty of identifying speakers on the recording. Videos are made by Citywatch only occasionally because of lack of technical staff and preemption by Supervisor's meetings, another argument for retaining the court reporter requirement, providing transcripts of hearings suitable for inclusion in administrative records for those seeking a writ in Superior Court. The final budget increased the fees to the court reporter in line with the fees paid in other jurisdictions for their evening work, which is especially difficult compared to their



usual daytime assignments.

In an unusual appeal regarding property in the Hayes Valley, the Board overruled a Zoning Administrator determination involving a conversion of retail use to business/professional services on the third floor and required conditional use authorization if the proposed use fit the Code definition of business/professional services use. The matter appeared to be a landlord-tenant problem and by the end of the year resulted in litigation. Planning sought to preserve the neighborhood-serving retail use in the Hayes-Gough Neighborhood Commercial District and not allow non-retail uses that would not serve the residents of the area as the Planning Code requires.

The appeal of a revocation of what appeared to be a minor alteration permit to install retail improvements in a Tenderloin shop resulted in the upholding of the revocation after testimony appeared to show the proposed lingerie shop was related to the adult entertainment industry and was inappropriate in a neighborhood seeking to improve its quality of life for residents, especially those with children. Five people testified in support of the revocation and one against.

The proposed conversion of an abandoned movie theater in the Mission district to a climbing fitness center came to the Board from a Planning Commission denial, and resulted in the Board overruling and granting the permit after supportive testimony from youth who said the facility was desirable for them as an esteem builder. Several appeals throughout the year included what Mission activists called gentrification issues as non-traditional businesses attempt to move into the area, replacing traditional industrial-commercial businesses which provide traditional blue-collar jobs. The Board supported new business development while the activist organizations worked with the Planning Department on a new plan for the area to address these issues.

In March, the Board overruled another Planning Commission denial, this time an application for a four-story, two-family house in the Sunset District. Neighbors objected to



the height and mass of the design and the Board granted the permit with some revisions to the plans to mitigate the effects of the project on the neighbors. The final decision was made in late May to allow for settlement meetings of the parties, but the meetings did not prove fruitful.

FOURTH QUARTER: APRIL 1 TO JUNE 30, 2002

In April the Board overruled a Zoning Administrator determination that permanent legal use of the Western Furniture Mart is design showroom and is not office use under the Planning Code. The determination would require the owners to go through the Planning process for conversion to office use, triggering substantial fees for transit, housing and child care impacts on the City of several hundred thousand square feet of new office space. Overruling the determination would save the owners millions of dollars in such fees. Advocates for affordable housing and children's services testified in strong support of the Zoning Administrator while the counsel for the owners based their argument on the practices of other jurisdictions in similar situations. The Board found that the building is already an office building and therefore not subject to the conversion process and fees. This was probably the most controversial case the Board faced during the year.

Later in April the Board overruled a Zoning Administrator determination requiring the removal of a stairwell penthouse in a residential building, which had been built to meet State Building Code requirements at the behest of the district building inspector. Neighbors had urged the Zoning Administrator to require its removal since they alleged it was unsightly and out of character with the neighborhood. The Board sought to find ways to ameliorate the effects of the penthouse but could not get past the Codes, which sought to provide for better protection of occupants and firefighters. In the end a condition was imposed requiring the owners to use a color consultant so as to reduce the intrusiveness of the penthouse on the local skyline.

May brought another controversial appeal, this time of a Planning Commission disapproval



of permits for two one-family houses on Edgehill Way, a steep narrow street through a wooded area above West Portal. The Board overruled the Commission and granted the permits on condition that the plans be revised to reduce their length, to limit their square footage, the developer to provide a street improvement bond for the roadwork, that no construction of the houses could be done before the roadwork was complete in front of the two sites as well as four adjacent sites under the same ownership, the recordation on the land records of an open space preservation easement for all six lots and that recommendations of the Structural Advisory Committee be implemented. The case was complicated by the fact the disapproval wasn't made final by the Building Inspection Department until a year after the DR hearing at the Planning Commission, and the owner argued that his project should be deemed approved under the State Permit Streamlining Act, an argument rejected by the Board.

In June the Board upheld the denial by the Planning commission of an application to add a three-story addition to a house in Cow Hollow which had been denied because the said addition encroached into the mid-block open space surrounded by houses whose owners opposed to the addition, owners who are Section 14 parties deemed to be principals in the appeal under Section 14 of Part III of the Municipal Code. This was one of a few cases during the year where Section 14 parties participated in an appeal.

The June 5 meeting did not adjourn until midnight with the longest hearing being an appeal of a Zoning Administrator determination that a Place of Entertainment permit cannot be approved because the subject property abuts an RC-4 zoning district and has an open balcony at the rear. After hearing public testimony from 17 people the Board overruled the subject determination on condition that there be no seating on the balcony after 9 pm, as well as meeting all conditions proposed by the Police Department and agreed to by the owner.

On June 19 the Board revoked an alteration permit to convert a one-family house to two-family because of extensive uncontroverted testimony that the building was being used as



a hotel in violation of several Codes, with a long list of violations and citations over the years. June 26 was the final meeting of the Board for the fiscal year. And the last meeting for the five Commissioners whose terms ended as of July 1, 2002 under the Charter amendment passed by the voters as Prop D in March. A new Board will be appointed by the Mayor (three nominees) and the President of the Board of Supervisors (two nominees), all five to be approved by a majority vote of the full Board of Supervisors for four-year terms.

Mayor Brown attended the June 26 meeting and presented the five Commissioners with a framed commendation, thanking them for their service to the City in a difficult and important role in his administration. While he had announced he would nominate Commissioners Chin, McInerney and Saunders for approval by the Supervisors, he said he would have reappointed them all if he had not been limited by the Charter.

The Commissioners thanked him for the opportunity he had given them to serve in this capacity. The Board adopted a resolution of thanks to the Official Court Reporter Easteller Brühl whose last meeting it was also.

Alice Barkley, Andrew Zacks, and Brett Gladstone thanked the Board for their efforts over the past years and wished them well in their new endeavors.

The final item on the calendar was an appeal of a Planning Commission disapproval of an application to convert a two-family house into a one-family house, a merger generally opposed by the Commission at a mandatory DR hearing, as in this case. The Board quickly overruled the Commission and allowed conversion and the remodeling requested.

This year was especially stressful to the Board because of Proposition D and the uncertainty of its effects. Parties appeared to factor into their appeals' strategies the impending termination of the Board and the appointment of a new one, probably with a different attitude toward development and neighborhood associations. There was obvious



pressure on some parties to be calendared before June 30, while others asked to have their hearings scheduled after July 1.

As during previous years the Board scheduled penalty appeals on the first meeting of the month so they could be expeditiously dealt with.

Throughout the year the Board heard taxicab medallion revocations, appeals of denied variances, penalties imposed, and protests of permits issued for residential projects that were alleged to be out of character with the neighborhood.

The Board made its decisions in light of the Building, Planning, Police and Public Works Codes, as well as under the Residential Design Guidelines, and interim controls and other regulations.

President Chin was re-elected President in January to serve until June 30 and was thanked by the Board for his efforts to manage the calendar by encouraging parties to settle their dispute or to at least narrow the issues to be decided by the Board.

Commissioner McInerney served as Vice President from January to June 30, charged by President Chin to work with staff on scheduling matters.

This year appeal fees, the sole source of revenue for the Department reached \$59,000, the highest it has ever been. This reflects the increasing number of appeals of Zoning Administrator determinations, notices of violation, and Planning Commission DR denials or modifications, for which the fee is \$400, the highest on our fee schedule.

The amendments to the Board's briefing schedule adopted in January proved successful from the staff point of view, resulting in fewer submittals to handle, with the briefing schedule based on the date of filing of the appeal and not on the date of hearing. This allows for more flexibility in scheduling hearings since a change in hearing date has no



bearing on the briefing schedule.

The amendments including codifying the procedures for requests for rehearing and requests for jurisdiction, facilitated processing and for the first time gave the public clear procedures to follow in these matters.

The office of the Board remained at 1660 Mission Street in Room 3036, a space too small to contain the staff, its supplies, the appeals documents and the public visiting to file papers or to review files.

During the year Commissioner McInerney urged the Board and the staff within the limits of regulations, to expedite the process, while Commissioner Cullum and Commissioner Saunders sought the maximum relief possible for tenants threatened with eviction, and Commissioner El Qadah showed his concern for small businesses impacted by City regulations and for commercial sign issues. President Chin sought to maintain a collegial tone to the Board's deliberations, often difficult in light of the forceful personalities of the members and the complexity of the issues.

During this tumultuous year, Cathy Johnson performed admirably as she trained staff, attended some hearings and coordinated the appeals process, as well as meeting the requirements of the Mayor's Budget Office, the Controller, the Purchaser, DHR, DTIS and all her other miscellaneous duties. Victor Pacheco set up, attended and cleared all Board meetings as clerk and time keeper, maintained the Board calendars, prepared all notices of appeal and notices of final decision, supervised all communications with parties, created new forms/templates to assist the public, kept the Department's website up to date, and supervised the Senior Clerk Typist and Youth Worker/Intern, always with great professionalism and a sense of humor.

Departmental representatives at public hearings: The Planning Department was ably represented by Larry Badiner, Zoning Administrator, backed up by Senior Planners Craig



Department of Building Inspection by Chief Building Inspector Laurence Kornfield, assisted by Senior Building Inspector Rafael Torres-Gil; and the Police Department by Sgt. William Coggan of the Department's Legal Division.

The Board was advised on legal matters at each hearing by Judith Boyajian, Deputy City Attorney, the head of the City Attorney's land use team.

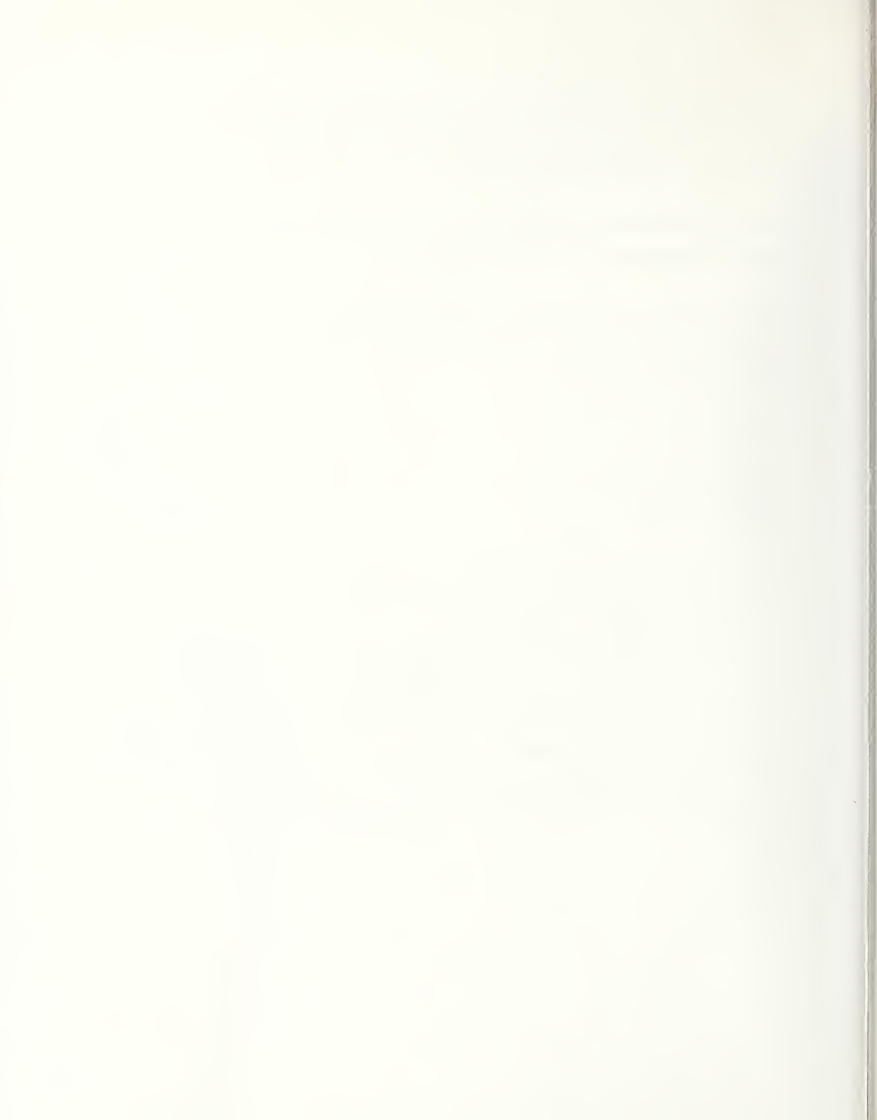
It remains the intention of the Board and staff to continue to strive for excellence in serving the public, with strict attention to all legal requirements, and with compassion for the human beings involved in the process.

Prepared by,



Robert H. Feldman,
Executive Secretary

cc: Commissioners - Board of Appeals
Former Commissioners of the Board (2001-2002)
Lawrence Badiner, Zoning Administrator
Judith Boyajian, Deputy City Attorney
James Hutchinson, Deputy Director of DBI
Laurence Kornfield, Chief Building Inspector, DBI
Sgt. William Coggan, Legal Division, Police Dept.
Gloria L. Young, Clerk of the Board of Supervisors
Edward Harrington, Controller
Donna Hall, Sunshine Ordinance Task Force
Public Library (2 copies)
Ben Rosenfield, Mayor's Budget Director
Harvey Rose, Board of Supervisors' Budget Analyst



**ANNUAL REPORT
BOARD OF APPEALS**

**COMPARATIVE STATISTICAL ANALYSIS OF APPEALS FILED FOR FISCAL YEARS
2000 TO 2001
2001 TO 2002**

	00/01		'01/02	
TOTAL NUMBER OF APPEALS FILED	274		278	
Department of Building Inspection	174	63.5%	174	62.6%
Department of Public Works	4	1.5%	3	1.1%
Planning Department	74	27.0%	78	28.1%
Police Department	21	7.7%	8	2.9%
Fire Department	0	0.0%	0	0.0%
Health Department	1	0.4%	0	0.0%
Taxi Commission	0	0.0%	12	4.3%
Redevelopment Agency	0	0.0%	0	0.0%
Housing Inspection Division	0	0.0%	0	0.0%
Interdepartmental Staff Committee on Traffic and Transportation	0	0.0%	0	0.0%
Urban Forestry	0	0.0%	3	1.1%
	274	100.0%	278	100.0%
Overruled with conditions *	38		57	
Overruled without conditions	40		56	
Concurred	134		125	
Withdrawn	62		40	
	274		278	

DEPARTMENT OF BUILDING INSPECTION

Overruled with conditions *	29	37
Overruled without conditions	23	23
Concurred	102	91
Withdrawn	20	23
	174	174



COMPARATIVE ANNUAL REPORT FISCAL YEARS 2000 TO 2001 AND 2001 TO 2002

DEPARTMENT OF PUBLIC WORKS

	'00/01	'01/02
Overruled with conditions	2	2
Overruled without conditions	0	0
Concurred	1	1
Withdrawn	1	0
	<hr/> 4	<hr/> 3

PLANNING DEPARTMENT

Overruled with conditions *	17	12
Overruled without conditions	21	25
Concurred	27	28
Withdrawn	9	13
	<hr/> 74	<hr/> 78

POLICE DEPARTMENT

Overruled with conditions *	1	2
Overruled without conditions	4	0
Concurred	5	2
Withdrawn	11	4
	<hr/> 21	<hr/> 8

FIRE DEPARTMENT

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	<hr/> 0	<hr/> 0

HEALTH DEPARTMENT

Overruled with conditions *	0	0
Overruled without conditions	1	0
Concurred	0	0
Withdrawn	0	0
	<hr/> 1	<hr/> 0



COMPARATIVE ANNUAL REPORT FISCAL YEAR 2001 TO 2002

TAXI COMMISSION

Overruled with conditions *	0	2
Overruled without conditions	0	8
Concurred	0	2
Withdrawn	0	0
	<hr/>	<hr/>
	0	12

REDEVELOPMENT AGENCY

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	<hr/>	<hr/>
	0	0

DIVISION OF APARTMENT AND
HOTEL INSPECTION

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	<hr/>	<hr/>
	0	0

INTERDEPARTMENT STAFF COMMITTEE ON
TRAFFIC AND TRANSPORTATION

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	<hr/>	<hr/>
	0	0

URBAN FORESTRY

Overruled with conditions *	2	2
Overruled without conditions	0	0
Concurred	1	1
Withdrawn	1	0
	<hr/>	<hr/>
	4	3



COMPARATIVE ANNUAL REPORT FISCAL YEARS 2000TO 2001 AND 2001 TO 2002

OTHER ACTIONS

	'00/01	'01/02
Rehearings Withdrawn	0	4
Rehearings Granted	8	3
Rehearings Denied	23	30
	-----	-----
	31	37
Further Hearings	52	55
Site Inspections	0	0
Court Remands	0	2
	-----	-----
	52	57
TOTAL OTHER ACTIONS	83	94
Matters Pending	28 **	33 ***
Appeals Not Accepted (Lack of Jurisdiction)	4	3
Appeals Accepted but Board had No Jurisdiction	4	6
Appeals Accepted (Jurisdiction granted)	5	6
Appeals Continued at Hearings	52	55
	-----	-----
	85	103
Call of the Chair		11

*NOTE: A majority of appeals in this category are actually concurrences with the Department with only minor conditions. For example, any change in the amount of a penalty assessed for work done without a permit renders that decision in the "Overruled with conditions" column.

**NOTE: Additional appeals processed but no decision released during the fiscal year 2000-2001

***NOTE: Additional appeals processed but no decision released during the fiscal year 2001-2002.



CITY & COUNTY
OF SAN FRANCISCO

BOARD OF APPEALS
ANNUAL REPORT
JULY 1, 2002-JUNE 30, 2003

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Prepared By:

Robert H. Feldman, Executive Secretary

(415) 575-6885, fax (415) 575-6885

December 24, 2003

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CITY AND COUNTY OF SAN FRANCISCO
WILLIE L. BROWN, JR., MAYOR
BOARD OF APPEALS 2002-2003

COMMISSIONERS

Arnold Y. K. Chin, President
Kathleen Harrington, Vice President
Sabrina N. Saunders, Commissioner
Douglas Shoemaker, Commissioner
Hisashi B. Sugaya, Commissioner

STAFF FOR 2002-2003

Robert H. Feldman, Executive Secretary	(1575)
Catherine B. Johnson, Principal Clerk	(1408)
Victor F. Pacheco, Legal Assistant	(8173)
Marylee Phillips, Sr. Clerk Typist	(1426)
Paul C. Johnson, Sr. Clerk Typist (part-time as needed)	(1426)
Iris Davis, Sr. Clerk Typist (part-time as needed)	(1426)
Manuel Payes, Jr. Clerk (part-time as needed)	(1402)

Claudine Woeber, Official Court Reporter (annual contract approved by Civil Service Commission, Purchaser, Administrative Officer and City Attorney) for 2001-2002.

STATEMENT OF PURPOSE & MISSION

The Mission of the Board of Appeals, a quasi-judicial body created under the Charter of 1932, is the processing, hearing and deciding of appeals of departmental decisions involving the grant, denial, suspension, and revocation of permits, licenses, and other use entitlements by various commissions, departments, bureaus, agencies and officers of the City and County of San Francisco, including the granting and denial of variances and other determinations of the Zoning Administrator and discretionary review decisions and certain authorizations by the Planning Commission.

AUTHORIZATION & PROCEDURES:

The jurisdiction of the Board is set forth in Section 4.106 of the Charter and the Board of Appeals' regulations are contained in the Business & Tax Regulations Code, Article 1, Permit Procedures, §§ 1-31, and under the Rules of the Board. The Charter, revised effective July 1, 1996, retained the Board, and changed its name from the Board of Permit Appeals to the Board of Appeals (§ 4.106). Specific rights of appeal to the Board are also set forth in the Building, Planning, Public Works, Police, Health, Plumbing and Electrical Codes. The following are examples of the diversity of matters under the jurisdiction of the Board:

- a) building permits for new commercial and residential buildings
- b) alteration permits for rear decks and room additions to residential buildings
- c) demolition permits to clear lots for construction and determinations of unlawful demolitions
- d) rear yard and parking variances, to legalize dwelling units and allow expansion of houses
- e) pushcart permits
- f) place of entertainment/dance hall keeper, and after hours permits
- g) taxicab medallions and taxi driver permits, and public convenience & necessity findings of the Taxi Commission which determine the number of taxicab medallions issued in the City.

- h) horse-drawn vehicle permits
- i) refuse collection permits for federal facilities
- j) restaurant permits
- k) mechanical amusement device, billiard and massage parlor permits
- l) sidewalk table and chair permits
- m) business sign, awning, and billboard permits
- n) street artist permits
- o) sidewalk tree planting, removal and replacement orders and permits
- p) public service kiosk and street furniture (restroom) permits
- q) sidewalk merchandise display permits
- r) downtown office building authorizations and exceptions

In addition, the Board rules on interpretations and determinations by the Zoning Administrator as well as appeals of investigation fees (penalties) levied by the Department of Building Inspection for work done without the required permit.

Under the revised Charter of 1996 the Board lost jurisdiction over permits issued by the Recreation and Park Department and the Port Commission, as well as any building or demolition permits issued pursuant to a Conditional Use Authorization by the Planning Commission.

Public hearings were held this year three Wednesdays a month beginning at 5:00 p.m. in Room 416 in City Hall, One Dr. Carlton B. Goodlett Place. At scheduled hearings the appellants, permit holders, concerned citizens, and departments presented their arguments and responded to questions from the Board. Although many matters were resolved at an initial hearing, a sizeable number required further hearing, and in some cases, a site visit by Board members. Meetings lasted as late as midnight, with as many as nine or ten appeals on a calendar.

Several years ago, the Board instituted a policy of hearing all cases involving a specific department



in sequence. This practice has resulted in reducing overtime costs for departmental officials, especially police officers, who are required to attend the Board's hearings for matters relevant to the Department.

During this year the Board continued its practice of having the Official Court Reporter at the beginning of each meeting swear or affirm in all those intending to testify at any hearing that night, and to repeat this process during the evening as necessary to insure all who testify are sworn or affirmed.

This fiscal year the Board processed 242 appeals. Many involved more than one department, and required the resolution of several issues, the Board resolving hundreds of issues during the year.

The attached statistical breakdown shows the nature and final disposition of appeals decided during the fiscal year.

MBO PERFORMANCE

The MBO goal for the Board has been to issue 95% of its final written decisions within thirty days of the final action by the Board, and to schedule hearings within 45 days of filing. We have consistently met the goal of releasing final decisions within 30 days of final Board action, but we have not been able to meet the goal of scheduling initial hearings within 45 days of filing. We remain concerned with the costly, complicated and time consuming legal burdens placed upon the Board both by the nature of appeals, and their resolution and litigation they generate, and by the Sunshine Ordinance, and will continue to strive to efficiently serve the public and reach our goals. Litigation results in the need for more documentation of cases and the adoption of substantial written findings and preparation of preparation of complete administrative records by the Board. In many cases the final notice of decision at the end of the appeal process is issued by staff within 36 hours of the final Board decision.

BUDGET

The Departmental budget for FY 2002-2003 submitted by the Mayor and adopted by the Board of Supervisors was \$443,498. This was basically the same as the previous year, with only minor adjustments and no substantive increases. The Board of Appeals operated within the budget and no supplementals were required. Appeal fees accounted for the only revenue generated by operations which were projected to be \$52,000. The actual amount collected was \$53,050 which was deposited in the City's general fund, the source of our funding.

TELEVISION BROADCAST

Beginning this year, the proceedings of the Board on Wednesday nights are broadcast on SFGTV cable channel 26. Copies of the videotapes are available to the public from the station.

NARRATIVE OF YEAR'S ACTIVITIES

INTRODUCTION:

Throughout the year at its meetings the Board considered a variety of appeals: protests of issued building and demolition permits, penalties (investigation fees) imposed by the Department of Building Inspection, suspensions and revocations of Police permits, Zoning Administrator determinations, and decisions granting and denying zoning variance applications, as well as various Public Works Department decisions on permits for street trees and sidewalk table/chair encroachments. Each meeting agenda had, in addition, requests for rehearing, requests for jurisdiction, and the adoption of findings for cases already decided. The following narrative describes some of the more significant decisions and activities of the year. In some cases the Board imposed conditions requiring revisions to plans.

FIRST QUARTER: JULY 1 TO SEPT. 30, 2002

In March the voters adopted Proposition D, which amended the Charter (§ 4.106) to change the procedure for nomination and appointment of members of the Board of Appeals.

Since its creation under the Charter of 1932, the five members of the Board of Appeals have been appointed by the Mayor who could relieve them at will. The charter amendments of 1996 added a provision giving the Board of Supervisors thirty days to veto a Mayor's appointment to the Board. Under the new provisions, the Mayor nominates 3 members, and the President of the Board of Supervisors nominates two. All must be confirmed by a majority vote of the Board of Supervisors, with staggered four year terms, and may only be removed for official misconduct.

The terms of the Board members serving as of noon July 1, 2002 were terminated, and new Commissioners, duly appointed and approved by the Board of Supervisors, sat for the first time on October 16, 2002. No meetings were held from July 1, 2002 to October 15, 2002.

The last meeting of the out-going Board was held on June 26, 2003, during which the Mayor and members of the public thanked the Board for its service, and wished the members well for the future.

The Mayor announced he intended to re-appoint Commissioners McInerney, Saunders and Chin to the new Board, and he thanked out-going Commissioners Carole Cullum and Allam El Qadah for their service to the City. Effective July 1, 2003, the three members appointed by the Mayor and confirmed by the Board of Supervisors were Arnold Y.K. Chin, Kathleen Harrington, and Sabrina N. Saunders, and the two members appointed by the President of the Board of Supervisors and confirmed by the Board of Supervisors were Douglas Shoemaker, and Hisashi B. Sugaya.

SECOND QUARTER: OCT. 1 TO DEC. 31, 2002

Throughout the year the bulk of appeals were protests of building permits for demolition of buildings and construction of new residential buildings. Only the most interesting cases are highlighted in the narrative.

As in the past years, appeals by tenants of their landlord's permits to alter apartments and requiring

the tenant to vacate while work proceeds generated appeals. The Board continues to use its best efforts to allow the upgrading of the rental housing stock while ameliorating the burdens placed on tenants, especially in low-income neighborhoods.

A new trend in the high-income neighborhoods is an increasing number of appeals of Planning actions on applications to merge units to create large one-family houses. The Planning Commission's guidelines on mergers provide some direction for the Board, but again, while most of these cases do not involve low-income or affordable housing, the Board has sought to minimize the impact of mergers on tenants while allowing growing families to provide themselves with what they deem appropriately sized one-family houses in the City.

Changing trends in the rental market has not affected the Board yet, but future changes could impact the Board's workload.

Protests of demolitions seemed to be a staple throughout the year, owners seeking to replace old houses with larger ones, and neighbors trying to preserve the character of their neighborhoods. Planning Commission policies and guidelines regarding housing demolitions, construction and mergers will continue to change, creating new appeals to be decided by the Board.

At the first meeting of the new Board on October 16, 2002, the Board elected Commissioner Chin as president, and Commissioner Harrington as vice-president. The Clerk of the Board of Supervisors drew lots, which determined which Commissioners will serve until 2004, and which will serve until 2006. Commissioners Chin, Saunders, and Shoemaker drew 2-year terms, and Commissioners Harrington and Sugaya drew 4-year terms.

The public continued to file appeals after July 1, and together with the pending appeals as of July 1, a backlog of cases built up to 60 by the time of the first meeting in October. The Board scheduled extra-long meetings, one in November and one in December to begin at 130pm to assist in clearing the backlog, and with several long calendars and the Board was back to the usual number of pending cases by February 2003.



Also during this initial meeting department representatives introduced themselves and briefly explained the types of cases that come before the Board, and their role in the appeals process. Gerald Green, Planning Dept. Director; Lawrence Badiner, Zoning Administrator; Laurence Kornfield, Chief Building Inspector; Capt. O'Neill of the Police Dept. Permit Bureau; Naomi Little, Executive Director of the Taxi Commission; Tony Wolcott, Acting Urban Forester of the Dept. of Public Works Bureau of Urban Forestry. The Executive Secretary of the Board described the appeals process.

During the October meetings the Board handled appeals of penalties imposed by the DBI for work done without a permit, and Police Dept. revocations, as well as several requests to allow late filings of appeals based on failure of proper notice, and various extenuating circumstances. Later in the month the Board reviewed a number of cases which had been put on the indefinite calendar or the Call of the Chair by the former Board.

The first controversial matter came up during this period, involving a ZA determination that a major fast-food franchise cannot be permitted at the Lakeshore shopping center based on legislative history at the Board of Supervisors. The Board of Supervisors in approving the center had imposed conditions regarding sandwich establishments, and the case turned on the definition of "hamburger" and "sandwich". After two intense hearings the ZA determination was upheld.

During November the Board held its first DPW street tree permit case, hearing testimony about horticulture and the species appropriate for the City; as well as the intense feelings generated by the retention or removal of trees in the neighborhoods. During December the Board upheld a place of entertainment permit for a restaurant on Cosmo Place, and took extensive testimony from nearby residents opposing the use. In upholding the permit, the Board imposed several conditions intended to mitigate any negative impacts on the neighbors.

At the final meeting of the calendar year, December 18, 2002, the Board considered 3 rehearing requests, one jurisdiction request, and 11 appeals, not adjourning until 12:45 am Thursday, a 7 ¾ hour meeting, the longest of the year. The most contentious hearing involved permits to demolish a small two-unit building on 19th Street, and replace it with three townhouses in two buildings. Issues

1. The first part of the document is a letter from the President of the United States to the Congress, dated January 1, 1861. It is a very important document, as it contains the President's message to the Congress at the beginning of his first term. The letter is written in a formal, dignified style, and it is a good example of the President's role as the head of the executive branch of the government.

2. The second part of the document is a letter from the President to the Congress, dated January 1, 1861. It is a very important document, as it contains the President's message to the Congress at the beginning of his first term. The letter is written in a formal, dignified style, and it is a good example of the President's role as the head of the executive branch of the government.

3. The third part of the document is a letter from the President to the Congress, dated January 1, 1861. It is a very important document, as it contains the President's message to the Congress at the beginning of his first term. The letter is written in a formal, dignified style, and it is a good example of the President's role as the head of the executive branch of the government.

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5. The fifth part of the document is a letter from the President to the Congress, dated January 1, 1861. It is a very important document, as it contains the President's message to the Congress at the beginning of his first term. The letter is written in a formal, dignified style, and it is a good example of the President's role as the head of the executive branch of the government.

were raised concerning Prop. M policies, emergency vehicle access, and the Residential Design Guidelines.

THIRD QUARTER: JANUARY 1 TO MARCH 30, 2003

The new year began with a meeting on Jan. 15, 2003, which lasted until 10pm, a five hour meeting. The Board declined to rehear a ruling they made earlier that they did not have jurisdiction over a Taxi Commission decision to allow the addition of a name to a medallion whose holder had died. Later in the year the Superior Court ruled that the Board does have jurisdiction in these matters, and the Board scheduled a hearing on the merits. On June 23, 2003, the Board upheld the Taxi Commission's decision, on the merits, and a request for rehearing was pending at the end of the year. This was one of several Taxi Commission decisions regarding the addition of names of relatives to medallions after the death of the holder. With the aging of medallion holders, it is expected that more Taxi Commission actions will be appealed. The United Taxi Workers participate in most medallion cases, urging the Board to deny requests to allow the addition of relatives' names to medallions, so that these medallions can be returned to the City, and be re-issued to drivers on the medallion list.

Additional taxi cases are coming up dealing with medallion holders who can no longer drive because of disabilities and aging. This too is expected to generate more appeals as holders age and are unable to comply with driving requirements. It is expected that taxi regulations will be amended to cover this problem, which could diminish the Board's role in these matters.

At the meeting of Jan. 22, 2003 the Board upheld a permit to expand a basement of a commercial building on Commercial Street in Chinatown for use by a non-profit which provides vocational training. The protestor sought to preserve the façade of the building in an effort to preserve the architectural and cultural history of Chinatown. The testimony was of a high level about architectural and cultural history as well as of the needs of recent immigrants who seek jobs in the City. At this same meeting the Board voted to re-elect President Chin and Vice President Harrington, and elected Commissioner Shoemaker as alternate Vice President.

Two appeals concerning the legalization of an accessory dwelling unit in a warehouse near the bay, formerly used for boat repair, resulted in a contentious two-hour hearing in late January. Issues of Planning Code accessory use regulations and Building Code regulations of changing use of old commercial and industrial buildings were involved and the Board sought to balance the need for a residential unit while supporting the DBI's efforts to enforce its regulations. The matter is expected to lead to litigation.

At the January 29, 2003 meeting the Board held a 2-hour long hearing on a place of entertainment permit, and upheld it with several conditions intended to protect nearby neighbors from loud music on weekend evenings. In these cases the Board must balance the needs of businesses and the needs of residents who like quiet during the night hours. Testimony from the restaurant and hospitality industry and the community was intense in light of the recent fall-off of tourist and convention activity since the disaster of Sept. 11, 2001, while apartment residents are being pressured by increasing unemployment and higher rents, which make moving difficult. The Board continuously struggles to find ways of encouraging apartment improvements while not forcing out those who have not yet found low-income housing and are unable to relocate.

In February the Board overruled a Planning denial of a place of entertainment permit for a bar on 6th Street, and heard testimony from residents and business owners on the changing character of the neighborhood, long an area impacted by crime and urban blight. The Board's role in efforts to improve blighted neighborhoods supports other departments' activities in this work.

In March, at the request of Commissioner Shoemaker, The Board heard a brief presentation from the Director of the Mayor's Office of Housing on the procedures used to support development of low-income housing in the City.

Also in March, the Board heard a variance appeal of a proposed mixed-use building in Glen Park, with a public library branch on the second floor, retail below and 9 residential units above. The hearing took 2 hours with parking and traffic congestion being the principal issues.

FOURTH QUARTER: APRIL 1 TO JUNE 30, 2003

In May an appeal of a DPW permit for removal and replacement of an American elm tree on Telegraph Hill generated intense testimony from those urging retention of the tree and the appellant asking for a permit to replace it. The tree cases proved difficult ones for the Board with both technical horticultural and emotional testimony being voiced. In this case the Board upheld on a split vote the DPW denial, much to the delight of the neighbors who claimed that the tree provides protection for the Grace Marchant Garden, and a place of refuge from hawks for the flock of wild parrots which live in the area.

On June 4 a case pitting the largest advertising billboard company in the nation against a property owner seeking to erect two signs on her commercial building put into high relief the significance of these cases involving complex legal and planning issues that could result in litigation and decisions that could affect the sign industry and property rights of owners. On a split vote the Board upheld the permits and had to consider the Planning Code amendments adopted recently by the voters, which strengthened restrictions over the industry in the City.

The last meeting of the year on June 25 had a calendar of hearings on taxi medallion revocations, place of entertainment denial, alteration permit for bathroom enlargement in a one-family house, permit for replacement windows in an architecturally significant building, refund of DBI penalties for work done without a permit, sidewalk display permits, demolition of apartment units, and a denial of a lot size variance that would allow construction of a small one-family house.

These cases involved construction and businesses all around the City, and it was typical of the work of the Board all year.

President Chin continued to give strong leadership and was particularly effective in managing long calendars. Vice President Harrington stepped in to preside when necessary and expressed great interest in appeals involving small businesses and property rights. Commissioner Shoemaker took the lead in consideration of appeals involving multi-unit projects and affordable housing. Commissioner Sugaya demonstrated great interest in architectural design issues, and reviewing of

plans to mitigate the effect of projects on surrounding neighbors. Commissioner Saunders continued as in past years to take special interest in matters involving displacement of families and employment.

While the Rules of the Board were not amended this year, the Board of Supervisors did enact an ordinance that made the Board of Appeals an enterprise department no longer dependent on the general fund for its operations, placing surcharges on permit applications issued by departments which are subject to appeal to the Board. The Board's filing fees will continue to go into the general fund while surcharges will go into a special account to support our operations. This new system will cause a change in the budgeting process but should not otherwise effect the appeals process. We have estimated that 68,000 permits are issued in a year that are subject to appeals to the Board. Surcharges range from \$1.00 to \$10.00.

Litigation: During the year Board decisions were challenged in Superior Court 13 times and the Board was ably represented by the City Attorney's office. The City Attorney prevailed in all cases except where the Court held that the Board does have jurisdiction over certain decisions of the Taxi Commission and sent the matter back to the Board for a hearing on the merits.

Departmental representatives at public hearings: They generally remained the same as in the past year, except that Deputy City Attorney Judith Boyajian was replaced by Deputy City Attorney Catharine Barnes when MS. Boyajian was given additional responsibilities by the City Attorney. Ms. Barnes came to the Board with extensive experience having served as counsel to several other City commissions. The Planning Department was ably represented by Larry Badiner, Zoning Administrator, backed up by Senior Planners Craig Nikitas, Jonas Ionin, Jim Nixon, and Julian Banales; the Department of Building Inspection by Chief Building Inspector Laurence Kornfield, assisted by Senior Building Inspector Leo McFadden; the Police Department by Sgt. William Coggan of the Department's Legal Division; and the Taxi Commission by Executive Director Naomi Little as Deputy City Attorney Tom Owens was reassigned and no longer attended hearings; she was supported ably by Inspector Farrell Suslow and Sgt. Vince Simpson of the Police Department's Taxi Detail.



Staff: Cathy Johnson, Office Manager, performed admirably as she trained staff, attended certain hearings, and coordinated the appeals process, as well as meeting the requirements of the Mayor's Budget Office, the Controller, the Purchaser, DHR, DTIS, and other miscellaneous duties. Victor Pacheco, Legal Assistant, attended all Board meetings as clerk and timekeeper, drafted and maintained the Board calendars, prepared all rescheduling notices, notices of appeal and final notices of decision, supervised all communications with parties, created and amended forms/templates to assist the public, kept the departmental website up to date, and supervised the Senior Clerk Typist and Junior Clerk, always with great professionalism and a sense of humor. Marylee Phillips provided reception and in-take services, while Iris Davis, Chris Johnson and Elizabeth Rudzinski served admirably in various clerical roles on a part-time basis. Official Court Reporter Claudine Woeber successfully completed her contract obligations and was rehired for the next year.

It remains the intention of the Board and staff to continue to strive for excellence in serving the public, with strict attention to all legal requirements, and with compassion for the human beings involved in the process.

Prepared by



Robert H. Feldman,
Executive Secretary

cc: Hon. Willie L. Brown Jr., Mayor
Commissioners - Board of Appeals
Public Library (2 copies)
Clerk of the Board of Supervisors

This report will be posted on the Board of Appeals' website, www.sfgov.org/boa, pursuant to ordinance no(s). 14-03.



**ANNUAL REPORT
BOARD OF APPEALS**

**COMPARATIVE STATISTICAL ANALYSIS OF APPEALS FILED FOR FISCAL YEARS
2001 TO 2002
2002 TO 2003**

	01/02		02/03	
TOTAL NUMBER OF APPEALS FILED	278		242	
Department of Building Inspection	174	62.6%	140	57.9%
Department of Public Works	3	1.1%	6	2.5%
Planning Department	78	28.1%	65	26.9%
Police Department	8	2.9%	8	3.3%
Fire Department	0	0.0%	0	0.0%
Health Department	0	0.0%	1	0.4%
Taxi Commission	12	4.3%	17	7.0%
Redevelopment Agency	0	0.0%	0	0.0%
Housing Inspection Division	0	0.0%	0	0.0%
Interdepartmental Staff Committee on Traffic and Transportation	0	0.0%	0	0.0%
Urban Forestry	3	1.1%	5	2.1%
	278	100.0%	242	100.0%
Overruled with conditions *	57		65	
Overruled without conditions	56		20	
Concurred	125		103	
Withdrawn	40		54	
	278		242	

DEPARTMENT OF BUILDING INSPECTION

Overruled with conditions *	37	33
Overruled without conditions	23	4
Concurred	91	67
Withdrawn	23	36
	174	140



COMPARATIVE ANNUAL REPORT FISCAL YEARS 2001 TO 2002 AND 2002 TO 2003

DEPARTMENT OF PUBLIC WORKS

	'01/02	'02/03
	-----	-----
Overruled with conditions	2	2
Overruled without conditions	0	2
Concurred	1	2
Withdrawn	0	0
	-----	-----
	3	6

PLANNING DEPARTMENT

Overruled with conditions *	12	11
Overruled without conditions	25	14
Concurred	28	25
Withdrawn	13	15
	-----	-----
	78	65

POLICE DEPARTMENT

Overruled with conditions *	2	4
Overruled without conditions	0	0
Concurred	2	2
Withdrawn	4	2
	-----	-----
	8	8

FIRE DEPARTMENT

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	-----	-----
	0	0

HEALTH DEPARTMENT

Overruled with conditions *	0	0
Overruled without conditions	1	0
Concurred	0	0
Withdrawn	0	1
	-----	-----
	1	1



COMPARATIVE ANNUAL REPORT FISCAL YEAR 2001 TO 2002 AND 2002 TO 2003

TAXI COMMISSION

Overruled with conditions *	2	11
Overruled without conditions	8	0
Concurred	2	6
Withdrawn	0	0
	<hr/>	<hr/>
	12	17

REDEVELOPMENT AGENCY

Overruled with conditions*	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	<hr/>	<hr/>
	0	0

DIVISION OF APARTMENT AND HOTEL INSPECTION

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	<hr/>	<hr/>
	0	0

INTERDEPARTMENT STAFF COMMITTEE ON TRAFFIC AND TRANSPORTATION

Overruled with conditions *	0	0
Overruled without conditions	0	0
Concurred	0	0
Withdrawn	0	0
	<hr/>	<hr/>
	0	0

URBAN FORESTRY

Overruled with conditions *	2	4
Overruled without conditions	0	0
Concurred	1	1
Withdrawn	0	0
	<hr/>	<hr/>
	3	5



COMPARATIVE ANNUAL REPORT FISCAL YEARS 2001 TO 2002 AND 2002 TO 2003

OTHER ACTIONS

	'01/02	'02/03
Rehearings Withdrawn	4	0
Rehearings Granted	3	4
Rehearings Denied	30	22
	37	26
Further Hearings	55	16
Site Inspections	0	0
Court Remands	2	6
	57	22
TOTAL OTHER ACTIONS	94	48
Matters Pending	33 **	36 ***
Appeals Not Accepted (Lack of Jurisdiction)	3	17
Appeals Accepted but Board had No Jurisdiction	6	9
Appeals Accepted (Jurisdiction granted)	6	6
Appeals Continued at Hearings	55	16
	103	84
Call of the Chair	11	15

*NOTE: A majority of appeals in this category are actually concurrences with the Department with only minor conditions. For example, any change in the amount of a penalty assessed for work done without a permit renders that decision in the "Overruled with conditions" column.

**NOTE: Additional appeals processed but no decision released during the fiscal year 2001-2002

***NOTE: Additional appeals processed but no decision released during the fiscal year 2002-2003.





